


CHRONO

OLL 85-1965

9 July 1985

MEMORANDUM FOR: AA/OSD/CGC
DC/ALD/CGC

FROM:


Legislation Division
Office of Legislative Liaison

STAT

SUBJECT: H.R. 2180 - "Immigration Reform Act of 1985"

1. Attached for your information only (at this point) is a copy of a bill, H.R. 2180, the "Immigration Reform Act of 1985". This bill was introduced by Representative Roybal. It is a comprehensive immigration reform along the lines of previous Simpson-Mazzoli bills and contains an interesting mix of "reforms", including the implementation of administrative naturalization and elimination of the six months state residency requirement.

2. At this point, there is little likelihood of House action on this bill. The House Judiciary Committee has not expressed an interest in proceeding with immigration legislation and Representative Mazzoli has not co-sponsored the Simpson bill, S. 1200, this year.

STAT

Attachment
as stated

Distribution:

STAT

I

99TH CONGRESS
1ST SESSION

H. R. 2180

To amend the Immigration and Nationality Act to revise and reform the immigration and nationality laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23 (legislative day, APRIL 22), 1985

Mr. ROYBAL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to revise and reform the immigration and nationality laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; REFERENCES IN ACT

4 (a) SHORT TITLE.—This Act may be cited as the “Im-
5 migration Reform Act of 1985”.

6 (b) AMENDMENTS TO IMMIGRATION AND NATIONAL-
7 ITY ACT.—Except as otherwise specifically provided in this
8 Act, whenever in this Act an amendment or repeal is ex-
9 pressed in terms of an amendment to, or repeal of, a section
10 or other provision, the reference shall be considered to be

1 made to a section or other provision of the Immigration and
 2 Nationality Act.

3 **TABLE OF CONTENTS**

Sec. 1. Short title; references in Act.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

**PART A—PREVENTING DISPLACEMENT OF DOMESTIC WORKERS BY
 UNAUTHORIZED ALIENS**

Sec. 101. Supplemental authorization of appropriations for enforcement of labor laws.

Sec. 102. Enhanced enforcement of labor laws.

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

Sec. 111. Supplemental authorization of appropriations for enforcement and service activities of the Immigration and Naturalization Service.

Sec. 112. Unlawful transportation of aliens to the United States.

Sec. 113. Report on establishment of anti-smuggling program.

Sec. 114. Treatment of immigration emergencies.

Sec. 115. Program of in-service training.

Sec. 116. Enhancement of community outreach within the Immigration and Naturalization Service.

Sec. 117. Liability of owners and operators of international bridges and toll roads to prevent the unauthorized landing of aliens.

PART C—ADJUDICATION AND ENFORCEMENT POWERS AND PROCEDURES

Sec. 121. United States Immigration Board and establishment of administrative law judge system.

Sec. 122. Arrest, search, and detention authority of Service officers and employees.

Sec. 123. Effective dates and transition.

Sec. 124. Technical and conforming amendments.

**TITLE II—REFORM OF LEGAL IMMIGRATION AND
 NATURALIZATION**

PART A—IMMIGRANTS

Sec. 201. Providing additional immigrant visa numbers for natives of contiguous countries.

Sec. 202. Change in colonial quota.

Sec. 203. Report on admissions and numerical limitations.

Sec. 204. Miscellaneous changes.

PART B—NONIMMIGRANT TOURISTS

Sec. 211. Visa waiver for certain visitors.

PART C—NATURALIZATION

Sec. 221. Providing option of administrative naturalization.

Sec. 222. Waiver of English language requirement for individuals over 50 years of age.

Sec. 223. Eliminating six months residence requirement in a State for naturalization.

TITLE III—LEGALIZATION

Sec. 301. Legalization.

Sec. 302. Cuban-Haitian adjustment.

Sec. 303. State and local assistance.

Sec. 304. Cooperation with State and local governments.

TITLE IV—NATIONAL COMMISSION ON IMMIGRATION

Sec. 401. National Commission on Immigration.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—PREVENTING DISPLACEMENT OF DOMESTIC

WORKERS BY UNAUTHORIZED ALIENS

SEC. 101. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT OF LABOR LAWS.

(a) ESTABLISHMENT OF ENFORCEMENT PLAN.—The Secretary of Labor, in consultation with the Attorney General and with the Chairman of the National Labor Relations Board, shall develop and transmit to Congress, not later than two months after the date of the enactment of this Act, a plan setting forth the levels of additional personnel and resources within the Department of Labor and within the National Labor Relations Board for fiscal year 1986 necessary to provide for efficient enforcement of the labor laws described in subsection (e). The plan shall—

(1) be designed to deter the employment of unauthorized aliens and to remove the economic incentive for employers who exploit and use such aliens, and

(2) shall place particular emphasis on those areas with a concentration of such unlawful activities.

1 (b) UPDATING IMMIGRATION PLAN.—For fiscal year
2 1987, the Secretary of Labor shall develop and transmit to
3 Congress on a timely basis a revision of the plan established
4 under subsection (a) in order to carry out the purposes de-
5 scribed in that subsection.

6 (c) SUPPLEMENTAL AUTHORIZATION OF APPROPRIA-
7 TIONS FOR FISCAL YEARS 1986 AND 1987.—In addition to
8 the amounts otherwise authorized to be appropriated, there
9 are authorized to be appropriated to the Department of Labor
10 and to the National Labor Relations Board—

11 (1) \$25,000,000 for fiscal year 1986, and

12 (2) \$30,000,000 for fiscal year 1987,

13 to enforce the labor laws described in subsection (e) in ac-
14 cordance with the plans established and revised under this
15 section.

16 (d) CONSULTATION IN ESTABLISHING AND IMPLE-
17 MENTING PLAN.—(1) In order not to encourage unlawful
18 employment discrimination or unwarranted government in-
19 trusion into the workplace, the Secretary of Labor, in estab-
20 lishing and revising the plans under this section, shall consult
21 with individuals and organizations expert in labor law
22 enforcement, including business, labor, and civil rights
23 organizations.

24 (2) In carrying out the plans under this section, the Sec-
25 retary of Labor shall consult with the Commissioner of the

1 Immigration and Naturalization Service under the Immigra-
2 tion and Nationality Act in identifying areas where unauthor-
3 ized aliens are being employed under conditions in violation
4 of the labor laws described in subsection (e).

5 (e) LABOR LAWS COVERED.—The labor laws referred
6 to in this section are the Fair Labor Standards Act of 1938,
7 the Occupational Safety and Health Act of 1970, and the
8 National Labor Relations Act.

9 **SEC. 102. ENHANCED ENFORCEMENT OF LABOR LAWS.**

10 (a) INCREASE IN PENALTY FOR PAPERWORK VIOLA-
11 TIONS.—Section 16(e) of the Fair Labor Standards Act of
12 1938 (29 U.S.C. 216(e)) is amended—

13 (1) by striking out “section 15(a)(4)” in paragraph
14 (3) and inserting in lieu thereof “paragraph (4) or (5) of
15 section 15(a)”;

16 (2) by redesignating paragraphs (1), (2), and (3) as
17 subparagraphs (A), (B), and (C), respectively;

18 (3) by inserting “(1)” after “(e)”;

19 (4) by inserting after the first sentence the follow-
20 ing: “Any person who willfully violates the provisions
21 of section 15(a)(5) as they relate to section 11(c) or
22 who, after receiving a notice from the Secretary of a
23 violation of such provisions, knowingly violates such
24 provisions shall be subject to a civil penalty of not to
25 exceed \$10,000 assessed by the Secretary.”; and

23 (2) an increase in examinations and other service
24 activities of the Immigration and Naturalization Serv-
25 ice and other appropriate Federal agencies in order to

1 ensure prompt and efficient adjudication of petitions
2 and applications provided for under the Immigration
3 and Nationality Act.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
5 404 (8 U.S.C. 1101 note) is amended to read as follows:

6 “AUTHORIZATION OF APPROPRIATIONS

7 “SEC. 404. (a) SUPPLEMENTAL AUTHORIZATION OF
8 APPROPRIATIONS FOR FISCAL YEAR 1985.—(1) In addition
9 to any other amounts appropriated to the Department of Jus-
10 tice for the Immigration and Naturalization Service for fiscal
11 year 1985, there are authorized to be appropriated
12 \$80,000,000 for such fiscal year for improved service and
13 enforcement activities. Amounts appropriated under this
14 paragraph shall be available for expenditure during fiscal
15 year 1986.

16 “(2) The Attorney General shall develop and transmit
17 to Congress, not later than two months after the date of the
18 enactment of the Immigration Reform Act of 1985, a plan
19 setting forth the levels of personnel and funding within the
20 Service for fiscal year 1985 necessary to provide—

21 “(A) for adequate and sufficient border patrol ac-
22 tivities, including personnel, equipment, training, and
23 support services,

24 “(B) for the provision of immigration and natural-
25 ization services, including process of applications for
26 legal entry, on a prompt and efficient basis, and

1 “(C) for an enhanced community outreach pro-
2 gram described in section 103(e).

3 The plan shall incorporate the in-service training program
4 described in section 103(d).

5 “(b) AUTHORIZATION OF APPROPRIATIONS FOR
6 FISCAL YEARS 1986 AND 1987.—(1) There are authorized
7 to be appropriated to the Department of Justice for the Im-
8 migration and Naturalization Service—

9 “(A) for fiscal year 1986, \$710,000,000, and

10 “(B) for fiscal year 1987, \$725,000,000.

11 “(2) For each of fiscal years 1986 and 1987, the Attor-
12 ney General shall develop and transmit to Congress on a
13 timely basis a revision of the plan established under subsec-
14 tion (a)(2) or under this paragraph setting forth the levels of
15 personnel and funding within the Service for that fiscal year
16 necessary to provide for the items described in subsection
17 (a)(2) for that fiscal year and to incorporate the in-service
18 training program described in section 103(d).

19 “(c) USE OF ADDITIONAL FUNDS.—In the case of any
20 additional amounts appropriated pursuant to subsections (a)
21 and (b) in addition to the amounts that otherwise would have
22 been appropriated in the absence of this section—

23 “(1) a significant proportion of such increase shall
24 be used to improve the delivery of immigration and

1 naturalization services, including timely processing of
2 petitions and applications, and

3 “(2) any increased amounts used for immigration
4 enforcement activities shall be used predominantly for
5 increasing border area patrol and support staff.”.

6 **SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE**
7 **UNITED STATES.**

8 Section 274 (8 U.S.C. 1324) is amended—

9 (1) by inserting “or subsection (c)” in subsection
10 (b)(1) after “subsection (a)”,

11 (2) by redesignating subsection (c) as subsection
12 (d), and

13 (3) by inserting after subsection (b) the following
14 new subsection:

15 “(c) **SMUGGLING FOR COMMERCIAL GAIN OR**
16 **PROFIT.**—(1) Any person who—

17 “(A) for the purpose of commercial advantage or
18 private profit, and

19 “(B) knowing or in reckless disregard of the fact
20 that an alien has not received prior official authoriza-
21 tion to come to, enter, or reside in the United States,
22 brings (or attempts to bring) to the United States such alien
23 by himself or through another in any manner whatsoever,
24 shall be fined not more than \$10,000 or imprisoned not more
25 than five years, or both, for each transaction constituting a

1 violation of this subsection (regardless of the number of aliens
2 involved).

3 “(2) Paragraph (1) shall apply to an action—

4 “(A) regardless of whether or not fraudulent, eva-
5 sive, or surreptitious means are used, and

6 “(B) regardless of any official action which may
7 later be taken with respect to an alien.”.

8 **SEC. 113. REPORT ON ESTABLISHMENT OF ANTI-SMUGGLING**
9 **PROGRAM.**

10 (a) **BILATERAL DISCUSSIONS.**—The Attorney General,
11 jointly with the Secretary of State, shall initiate discussions
12 with Mexico and Canada to establish formal bilateral pro-
13 grams with those countries to prevent and to prosecute the
14 smuggling of undocumented aliens into the United States. In
15 any such program, major emphasis should be placed on deter-
16 ring and prosecuting persons involved in the organized and
17 continuing smuggling for profit.

18 (b) **REPORT TO CONGRESS.**—The Attorney General
19 shall report to the Congress, not later than one year after the
20 date of the enactment of this Act, concerning the progress
21 made in establishing such bilateral programs.

22 **SEC. 114. TREATMENT OF IMMIGRATION EMERGENCIES.**

23 (a) **IMMIGRATION EMERGENCY CONTINGENCY**
24 **PLAN.**—Section 103 (8 U.S.C. 1103) is amended by adding
25 at the end the following new subsection:

1 “(c) IMMIGRATION EMERGENCY CONTINGENCY
2 PLAN.—(1) The Attorney General shall develop, and may
3 from time to time modify, a contingency plan to provide for
4 the allocation and management of personnel and resources of
5 the Service and other Federal agencies in the event of an
6 immigration emergency.

7 “(2) Such plan shall provide for a prompt, efficient, and
8 coordinated response at the Federal, State, and local levels,
9 for the prompt delivery of assistance and necessary resettlement
10 services, and for prompt assistance to States and
11 localities adversely impacted in responding to any such
12 emergency.

13 “(3) In developing such a plan, the Attorney General
14 shall consult with immigration experts and State and local
15 governments.

16 “(4) The Attorney General shall submit the contingency
17 plan to the Committees on the Judiciary of the House of
18 Representatives and of the Senate within four months after
19 the date of the enactment of this subsection.

20 “(5) If the President determines that an immigration
21 emergency exists and has certified such fact to the Congress,
22 the Attorney General may request necessary and urgent appropriations
23 in a manner consistent with the contingency
24 plan.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS FOR IMMI-
2 GRATION EMERGENCY.—Section 404 (8 U.S.C. 1101 note),
3 as amended by section 111(b), is further amended by adding
4 at the end the following new subsection:

5 “(d) AUTHORIZATION OF APPROPRIATIONS FOR IMMI-
6 GRATION CONTINGENCY PLAN.—There are authorized to be
7 appropriated such sums as may be necessary to carry out
8 section 103(c), which amounts shall be available without
9 fiscal year limitation.”.

10 **SEC. 115. PROGRAM OF IN-SERVICE TRAINING.**

11 Section 103 (8 U.S.C. 1103), as amended by section
12 114, is further amended by adding at the end the following
13 new subsection:

14 “(d) IN-SERVICE TRAINING PROGRAM.—(1) The Attor-
15 ney General shall provide for such programs of in-service
16 training for full-time and part-time personnel of the Service
17 in contact with the public as will familiarize the personnel
18 with the rights and varied cultural backgrounds of aliens and
19 citizens in order to ensure and safeguard the constitutional
20 and civil rights, personal safety, and human dignity of all
21 individuals, aliens as well as citizens, within the jurisdiction
22 of the United States with whom they have contact in their
23 work.

1 “(2) The Attorney General shall provide that the annual
2 report of the Service includes a description of steps taken to
3 carry out paragraph (1).”.

4 **SEC. 116. ENHANCEMENT OF COMMUNITY OUTREACH WITHIN**
5 **THE IMMIGRATION AND NATURALIZATION**
6 **SERVICE.**

7 Section 103 (8 U.S.C. 1103), as amended by sections
8 114 and 115, is further amended by adding at the end the
9 following new subsection:

10 “(e) **COMMUNITY OUTREACH PROGRAM.**—(1) The At-
11 torney General shall enhance the responsibilities of the com-
12 munity outreach program within the Service so that such
13 program, acting in cooperation with the community relations
14 service of the Department of Justice, has personnel located
15 at the district level—

16 “(A) to assist in the provision of services, particu-
17 larly naturalization services;

18 “(B) to provide outreach to deal generally with
19 community problems with the Service arising at the
20 district level; and

21 “(C) to receive and investigate complaints of
22 abuse of authority by personnel of the Service and to
23 transmit findings thereon to appropriate authorities for
24 disposition or resolution.

1 In providing for the functions described in subparagraph (A),
2 the Attorney General may secure the assistance and services
3 of voluntary and community agencies.

4 “(2) The Attorney General shall provide that the annual
5 report of the Service includes details concerning the progress
6 of the Service’s community outreach program in carrying out
7 the responsibilities described in paragraph (1).”.

8 **SEC. 117. LIABILITY OF OWNERS AND OPERATORS OF INTER-**
9 **NATIONAL BRIDGES AND TOLL ROADS TO PRE-**
10 **VENT THE UNAUTHORIZED LANDING OF**
11 **ALIENS.**

12 Section 271 (8 U.S.C. 1321) is amended by inserting at
13 the end the following new subsection:

14 “(c) **NO LIABILITY IF DILIGENTLY CARRYING OUT**
15 **DUTY.**—(1) No person described in subsection (a) who estab-
16 lishes to the satisfaction of the Attorney General that such
17 person has acted diligently and reasonably to fulfill the duty
18 imposed by such subsection shall be liable for the penalty
19 described in such subsection, notwithstanding the failure of
20 such person to prevent the unauthorized landing of any alien.

21 “(2)(A) At the request of any owner or operator of any
22 international bridge or toll road described in subsection (a),
23 the Attorney General shall inspect any facility established, or
24 any method utilized, at a point of entry into the United
25 States by such owner or operator for the purpose of comply-

1 ing with subsection (a). The Attorney General shall approve
2 any such facility or method (for such period of time as the
3 Attorney General may prescribe) which the Attorney Gener-
4 al determines is satisfactory for such purpose.

5 “(B) Proof that any owner or operator has diligently
6 maintained any facility, or utilized any method, which has
7 been approved by the Attorney General under subparagraph
8 (A) (within the period for which such approval is effective)
9 shall be prima facie evidence that such owner or operator
10 acted diligently and reasonably to fulfill the duty imposed by
11 subsection (a) (within the meaning of paragraph (1)).”.

12 **PART C—ADJUDICATION AND ENFORCEMENT POWERS**
13 **AND PROCEDURES**

14 **SEC. 121. UNITED STATES IMMIGRATION BOARD AND ESTAB-**
15 **LISHMENT OF ADMINISTRATIVE LAW JUDGE**
16 **SYSTEM.**

17 (a) **IN GENERAL.**—Title I is amended by adding at the
18 end the following new section:

19 **“UNITED STATES IMMIGRATION BOARD; USE OF**
20 **ADMINISTRATIVE LAW JUDGES**

21 **“SEC. 107. (a) ESTABLISHMENT OF BOARD.—(1)**
22 **There is established, as an independent agency in the De-**
23 **partment of Justice, a United States Immigration Board**
24 **(hereinafter in this section referred to as the ‘Board’) com-**
25 **posed of a Chairman and six other members appointed by the**
26 **President by and with the advice and consent of the Senate.**

1 “(2) The term of office of the Chairman and all other
2 members of the Board shall be six years except that—

3 “(A) of the members first appointed under this
4 subsection, two shall be appointed for a term of two
5 years, two shall be appointed for a term of four years,
6 and three shall be appointed for a term of six years,

7 “(B) a member appointed to fill a vacancy occur-
8 ring before the expiration of the term for which his
9 predecessor was appointed shall be appointed only for
10 the remainder of such term, and

11 “(C) a member may serve after the expiration of
12 his term until reappointed or his successor has taken
13 office.

14 “(3) A member of the Board may be removed by the
15 President only for neglect of duty or malfeasance in office.

16 “(4) Members of the Board (other than the Chairman)
17 are entitled, subject to the amounts provided in advance in
18 appropriation Acts, to receive compensation at the rate now
19 or hereafter provided for grade GS-17 of the General Sched-
20 ule, under section 5332 of title 5, United States Code. The
21 Chairman is entitled, subject to the amounts provided in ad-
22 vance in appropriation Acts, to receive compensation at the
23 rate now or hereafter provided for grade GS-18 of such Gen-
24 eral Schedule.

1 “(5) The Chairman shall be responsible on behalf of the
2 Board for the administrative operations of the Board. The
3 Board shall establish rules of practice and procedure for itself
4 and for the administrative law judges. In the case of hearings
5 before administrative law judges, the rules shall provide for
6 the rights provided for adjudications under section 554 of title
7 5, United States Code (popularly known as the Administra-
8 tive Procedures Act).

9 “(b) JURISDICTION OF BOARD.—(1) The Board shall
10 hear and determine appeals from—

11 “(A) final decisions of administrative law judges
12 under this Act, other than a determination granting
13 voluntary departure under section 244(e) within a
14 period of at least 30 days if the sole ground of appeal
15 is that a greater period of departure time should have
16 been fixed;

17 “(B) decisions on applications for the exercise of
18 the discretionary authority contained in section 212(c)
19 or section 212(d)(3)(B);

20 “(C) decisions involving the imposition of adminis-
21 trative fines and penalties under title II of this Act, in-
22 cluding mitigation thereof;

23 “(D)(i) decisions on petitions filed in accordance
24 with section 204, other than petitions to accord prefer-
25 ence status under paragraph (3) or (6) of section 203(a)

1 or petitions on behalf of a child described in section
2 101(b)(1)(F), and

3 “(ii) decisions on requests for revalidation and de-
4 cisions revoking approval of such petitions under sec-
5 tion 205;

6 “(E) determinations relating to bond, parole, or
7 detention of an alien under sections 242(i); and

8 “(F) such other administrative decisions and de-
9 terminations under this Act as the Attorney General
10 may provide by regulation.

11 “(2) Three members of the Board constitute a quorum of
12 the Board, except that the Chairman (or any member of the
13 Board designated by the Chairman) is empowered to decide
14 nondispositive motions.

15 “(3) The Board shall act in panels of three or more
16 members or in banc (as designated by the Chairman in ac-
17 cordance with the rules of the Board). A final decision of such
18 a panel shall be considered to be a final decision of the Board.

19 “(4)(A) Appeals to the Board from final orders of depor-
20 tation or exclusion (including an order respecting asylum con-
21 tained in such an order) shall be filed not later than 20 days
22 after the date of the final order.

23 “(B) The Board shall review the decision of an adminis-
24 trative law judge based solely upon the administrative record
25 upon which the decision is made and the findings of fact in

1 the judge's order, if supported by reasonable, substantial, and
2 probative evidence on the record considered as a whole, shall
3 be conclusive.

4 “(5) A final decision of the Board shall be binding on all
5 administrative law judges, immigration officers, and consular
6 officers under this Act unless and until otherwise modified or
7 reversed by a court of the United States.

8 “(c) ADMINISTRATIVE LAW JUDGES.—(1) The Chair-
9 man, in accordance with sections 3105 and 5108 and other
10 provisions of title 5, United States Code, relating to adminis-
11 trative law judges in the competitive service, shall—

12 “(A) appoint administrative law judges in a suffi-
13 cient number to carry out this section, and

14 “(B) designate one such judge to serve as chief
15 administrative law judge.

16 “(2) In accordance with rules established by the Board,
17 the chief administrative law judge—

18 “(A) shall have responsibility for the administra-
19 tive activities affecting administrative law judges, and

20 “(B) may designate any administrative law judge
21 in active service to hear and decide any cases de-
22 scribed in paragraph (3).

23 “(3) Administrative law judges shall hear and decide—

24 “(A) exclusion cases under sections 236 and
25 360(c),

1 “(B) deportation and suspension of deportation
2 cases under sections 242, 243, and 244,

3 “(C) adjustment of status cases under sections
4 245, 245A, and 245B and rescission of adjustment of
5 status cases under section 246,

6 “(D) applications for asylum under section 208,
7 and

8 “(E) such other cases arising under this Act as
9 the Attorney General may provide by regulation.

10 The authority to hear and decide adjustment of status cases
11 under subparagraph (C) and asylum cases under subpara-
12 graph (D) shall not preclude immigration officers from acting
13 on petitions for adjustment of status under sections 245,
14 245A, and 245B or for asylum under section 208.

15 “(4) In considering and deciding cases coming before
16 them, administrative law judges may administer oaths, shall
17 record and receive evidence and render findings of fact and
18 conclusions of law, shall determine all applications for discre-
19 tionary relief which may properly be raised in the proceed-
20 ings, and shall exercise such discretion conferred upon the
21 Attorney General by law as the Attorney General may speci-
22 fy for the just and equitable disposition of cases coming
23 before such judges.”.

24 (b) CONFORMING AMENDMENT TO TABLE OF CON-
25 TENTS.—The table of contents is amended by inserting im-

1 medately after the item relating to section 106 the following
2 new item:

"Sec. 107. United States Immigration Board; use of administrative law judges."

3 **SEC. 122. ARREST, SEARCH, AND DETENTION AUTHORITY OF**
4 **SERVICE OFFICERS AND EMPLOYEES.**

5 (a) APPREHENSION AND DEPORTATION.—(1) Subsec-
6 tion (a) of section 242 (8 U.S.C. 1252) is amended—

7 (A) by inserting before the period at the end of
8 the first sentence the following: "only if such arrest is
9 necessary to ensure the alien's presence in the deporta-
10 tion proceeding or if the alien is a danger to the public
11 safety or national security";

12 (B) by striking out "in the discretion of the Attor-
13 ney General" in the second sentence and inserting in
14 lieu thereof "after a bail determination",

15 (C) by striking out "the amount of not less than
16 \$500 with security approved by the Attorney General
17 containing" in the second sentence and inserting in lieu
18 thereof "an amount and subject to",

19 (D) by striking out "on conditional parole" in the
20 second sentence and inserting in lieu thereof "without
21 bond on such other conditions as the Attorney General
22 may prescribe",

23 (E) by striking out "in his discretion" in the third
24 sentence and inserting in lieu thereof "in accordance
25 with subsection (i)", and

1 (F) by striking out "parole" in the third and
2 fourth sentences and inserting in lieu thereof "release
3 without bond".

4 (2) Subsection (b) of such section is amended—

5 (A) by inserting ", the specific paragraph or para-
6 graphs in section 241(a) under which deportability is
7 alleged," in paragraph (1) after "charges against him",

8 (B) by striking out "and" at the end of paragraph
9 (3),

10 (C) by striking out the period at the end of para-
11 graph (4) and inserting in lieu thereof a semicolon, and

12 (D) by inserting after paragraph (4) the following
13 new paragraphs:

14 "(5) proceedings against an alien under this sec-
15 tion shall be open to the public unless the alien re-
16 quests that the hearing be closed to the public; and

17 "(6) any evidence, including oral or written state-
18 ments and tangible objects and documents, obtained by
19 the Service may be considered in proceedings under
20 this section, except that any such evidence seized in
21 violation (or as a result of a violation) of this section or
22 other law may not be considered in such proceedings.".

23 (3) Subsection (c) of such section is amended by striking
24 out "at the Attorney General's discretion" in the first sen-

1 tence and inserting in lieu thereof "in accordance with sub-
2 section (i)".

3 (4) Such section is further amended by adding at the end
4 the following new subsection:

5 "(i) BAIL DETERMINATIONS.—(1) An alien in custody
6 under subsection (a) or (c) shall be entitled to a bail determi-
7 nation in accordance with this subsection without unneces-
8 sary delay, and in no event later than 24 hours after the time
9 of arrest or the decision to hold the person in formal proceed-
10 ings.

11 "(2) The bail determination shall initially be made by an
12 officer of the Service specifically authorized by the Attorney
13 General to make such determinations.

14 "(3) In making a bail determination, the following fac-
15 tors shall be considered:

16 "(A) The length of residence in the United States.

17 "(B) The ability lawfully to immigrate to the
18 United States in the near future.

19 "(C) Family and community ties in the United
20 States.

21 "(D) Employment history in the United States.

22 "(E) Previous record of appearance or failure to
23 appear in administrative or judicial proceedings.

1 “(F) Any other factors considered relevant to the
2 likelihood of appearance at proceedings under this sec-
3 tion.

4 “(4) Unless it is determined that an alien is a danger to
5 the public safety or national security, an alien arrested under
6 subsection (a) shall be released without bond if it is deter-
7 mined that one or more of the following conditions of release
8 will reasonably assure his appearance at deportation
9 proceedings:

10 “(A) Placement in the custody of a designated
11 person or organization agreeing to supervise him.

12 “(B) Restrictions on his travel or place of abode
13 during the period of release.

14 “(C) Requiring that he report periodically to the
15 Service.

16 “(5) Any alien dissatisfied with his initial bail determi-
17 nation may apply to an immigration judge for a de novo bail
18 determination.

19 “(6) If it appears that there is reasonable cause, the
20 Attorney General may revoke at any time an alien's bond or
21 conditional release and the alien may be returned to custody
22 and detained until final determination of his deportability.
23 Such revocation may be reviewed upon petition of the re-
24 spondent by an immigration judge.”.

1 (b) POWERS OF IMMIGRATION OFFICERS AND EM-
2 PLOYEES.—(1) Subsection (a) of section 287 (8 U.S.C. 1357)
3 is amended—

4 (A) by amending paragraph (1) to read as follows:

5 “(1)(A) to stop and interrogate without temporari-
6 ly detaining any alien or person reasonably believed to
7 be an alien as to his right to be or to remain in the
8 United States;

9 “(B) to stop and temporarily to detain any alien
10 or person reasonably believed to be an alien if the offi-
11 cer or employee also has a reasonable belief, based on
12 specific, articulable facts, that the person so detained is
13 in the United States in violation of this Act,”;

14 (B) by inserting “, based on specific articulable
15 facts,” in paragraph (2) after “reason to believe”; and

16 (C) by striking out “before an officer of the Serv-
17 ice having authority to examine aliens as to their right
18 to enter or remain in the United States” in paragraph
19 (2) and inserting in lieu thereof “within 24 hours of the
20 time of arrest before the District Director, Deputy or
21 Assistant District Director, head of suboffice, or an im-
22 migration judge for a determination of whether suffi-
23 cient evidence exists to support the initiation of depor-
24 tation proceedings, unless the alien requests permission
25 to withdraw voluntarily from the United States in lieu

1 of exclusion or deportation proceedings under sections
2 236 and 242”.

3 (2) Such section is further amended by adding at the end
4 the following new subsections:

5 “(d) NOTICE OF RIGHTS.—(1) At the time of an alien’s
6 arrest with or without a warrant under section 242, the alien
7 shall be provided oral and written notice (in English or in
8 such other languages identified by the Attorney General as
9 likely to be understood by the alien) of the reason for his
10 arrest and the alien’s rights under this Act, including—

11 “(A) his right to remain silent and that any state-
12 ment made may be used against him;

13 “(B) his right to be represented by counsel of his
14 own choice, at his own expense, and of the availability
15 of free legal services;

16 “(C) his right to apply for political asylum and
17 that he may be eligible for asylum if he qualifies as a
18 refugee;

19 “(D) his right to a deportation hearing before an
20 immigration judge to determine whether the alien is le-
21 gally entitled to remain in the United States; and

22 “(E) that the alien’s agreeing to depart from the
23 United States voluntarily waives the alien’s right to a
24 deportation hearing.

1 Before an alien signs a form agreeing to depart voluntarily or
2 otherwise departs under section 242(b) or 244(e), the alien
3 shall be provided the notice described in the first sentence of
4 this paragraph and shall acknowledge in writing receipt of
5 the notice.

6 “(2) Before a person in custody is interrogated under
7 this Act, the person shall be orally advised—

8 “(A) of his right to be represented by counsel of
9 his own choice and at his own expense, and

10 “(B) of his right to remain silent and that any
11 statement he makes may be used against him.

12 “(e) ARREST AUTHORITY.—Any officer or employee of
13 the Service designated pursuant to regulations prescribed by
14 the Attorney General shall have the power to issue a warrant
15 for the arrest of any person reasonably believed by such offi-
16 cer or employee, based on specific, articulable facts, to be an
17 alien unlawfully in the United States.

18 “(f) SEARCH AUTHORITY.—(1) Any officer or employee
19 of the Service authorized under regulations prescribed by the
20 Attorney General may search persons or property (including
21 a place of business or residence) upon the authority of a
22 search warrant issued by a United States magistrate or a
23 judge of a district court of the United States for the district
24 wherein the person or property is located or by an immigra-
25 tion judge. Such a warrant may be issued to search for and

1 seize any person or property that constitutes evidence of the
2 commission of a violation of this Act. A warrant may be
3 issued only upon an affidavit or affidavits or sworn oral testi-
4 mony establishing the grounds for issuing the warrant.

5 “(2) If the magistrate or judge is satisfied that grounds
6 for the application exist or that there is probable cause to
7 believe that they exist, he shall issue a warrant identifying
8 the property and naming or describing the person or place to
9 be searched. Before ruling on a request for a warrant, the
10 magistrate or judge may require the affiant to appear person-
11 ally and may examine under oath the affiant and any wit-
12 nesses he may produce and such proceeding shall be of
13 record.

14 “(3)(A) The warrant, if issued, shall authorize an officer
15 or employee of the Service to search, within a specified
16 period of time not to exceed 10 days, the person or place
17 named for the person or property specified. The warrant shall
18 be served in the daytime unless the issuing authority, by ap-
19 propriate provision in the warrant and for reasonable cause
20 shown, authorizes its execution at another time.

21 “(B) The warrant shall designate a federal magistrate,
22 judge, or immigration judge to whom it shall be returned.
23 The officer or employee of the Service taking property under
24 the warrant shall give to the person from whom or from
25 whose premises the property was taken a copy of the warrant

1 and a receipt for the property taken or shall leave the copy
2 and receipt at the place from which the property was taken.
3 The return shall be made promptly and shall be accompanied
4 by a written inventory of any property taken. The federal
5 magistrate, judge, or immigration judge shall upon request
6 deliver a copy of the inventory to the person from whom or
7 from whose premises the property was taken and to the ap-
8 plicant for the warrant.

9 “(4)(A) Any officer or employee of the Service author-
10 ized under regulations prescribed by the Attorney General
11 may search without warrant persons or property (including a
12 business or residence) for the purpose of seizing any property
13 that constitutes evidence of the commission of a violation of
14 this Act or any person present in the United States in viola-
15 tion of this Act, where exigent circumstances exist such that
16 the officer or employee has probable cause to believe that the
17 search will disclose the existence of such evidence or person
18 and that such evidence will be destroyed or such person will
19 abscond before a warrant can be obtained.

20 “(B) An officer or employee seizing property under sub-
21 paragraph (A) shall give to the person from whom or from
22 whose premises the property was seized a receipt for the
23 property taken or shall leave a receipt at the place from
24 which the property was seized.

1 “(5) Any officer or employee of the Service authorized
2 under regulations prescribed by the Attorney General may
3 search without warrant persons or property (including a busi-
4 ness but not including a residence or dwelling) for the pur-
5 pose of seizing any person or property that constitutes evi-
6 dence of the commission of a violation of this Act, when the
7 person in lawful custody and control of such property volun-
8 tarily consents to such search. Such consent shall not author-
9 ize the arrest, search, or interrogation of persons located on
10 the premises unless otherwise authorized under this section.

11 “(6) Notwithstanding any other provision of this section
12 other than paragraph (3) of subsection (a), an officer or em-
13 ployee of the Service shall not enter without the consent of
14 the owner (or agent thereof) or a properly executed warrant
15 onto the premises of a farm or other outdoor operation for the
16 purpose of interrogating a person believed to be an alien as to
17 the person's right to be or to remain in the United States or
18 for activities related to that purpose.”.

19 **SEC. 123. EFFECTIVE DATES AND TRANSITION.**

20 (a) **IN GENERAL.**—(1) Except as otherwise provided in
21 this section, the amendments made by this part take effect on
22 the date of the enactment of this Act.

23 (2) The amendments made by this part shall not apply
24 to any exclusion or deportation proceeding (or administrative
25 or judicial review thereof) which was initiated or any applica-

1 tion for asylum which was filed before the hearing transition
2 date (designated under subsection (c)(1)). In the case of such
3 proceedings and such applications initiated before such dates
4 which continue after such dates, the United States Immigra-
5 tion Board shall provide that administrative law judges may
6 assume and perform such functions of special inquiry officers
7 or immigration officers as may be appropriate and consistent
8 with their duties as administrative law judges.

9 (b) ESTABLISHMENT OF U.S. IMMIGRATION BOARD.—

10 (1) The President shall nominate the Chairman and other
11 members of the United States Immigration Board (herein-
12 after in this section referred to as the "Board") not later than
13 45 days after the date of the enactment of this Act.

14 (2) The Chairman, in consultation with the Attorney
15 General, shall designate a date, not later than 45 days after
16 the Chairman and a majority of the members of the Board
17 are appointed, on which the Board shall assume the present
18 functions of the Board of Immigration Appeals (under exist-
19 ing rules and regulations).

20 (3) The Board shall provide promptly for establishment
21 of interim final rules of practice and procedure which will
22 apply to the Board (when not acting as the Board of Immi-
23 gration Appeals under paragraph (2)) and administrative law
24 judges under the Immigration and Nationality Act, after the
25 hearing transition date designated under subsection (c)(1).

1 (c) HEARING TRANSITION DATE.—(1) In order to pro-
2 vide for the orderly transfer of proceedings from the existing
3 special inquiry system to the administrative law judge
4 system, the Board, in consultation with the Attorney Gener-
5 al, shall designate a “hearing transition date”, to be not later
6 than 45 days after the date interim final rules of practice and
7 procedure are established under subsection (b)(3)(A).

8 (2) During the period before the hearing transition date,
9 any proceeding or hearing under the Immigration and Na-
10 tionality Act which may be conducted by a special inquiry
11 officer may be conducted by an individual appointed and
12 qualified as an administrative law judge in accordance with
13 all the rules and procedures otherwise applicable to a special
14 inquiry officer’s conduct of such proceeding or hearing.

15 (d) CONTINUATION OF CURRENT SPECIAL INQUIRY
16 OFFICERS.—Individuals acting as special inquiry officers on
17 the date of the enactment of this Act and on the hearing
18 transition date may (without regard to other provisions of
19 law) continue to conduct proceedings or hearings under the
20 Immigration and Nationality Act after such transition date
21 during the period ending two years after the date of the
22 enactment of this Act.

23 (e) SAVINGS PROVISIONS.—(1) The enactment of this
24 part shall not result in any loss of rights or powers, interrup-
25 tion of jurisdiction, or prejudice to matters pending in the

1 Board of Immigration Appeals or before special inquiry offi-
2 cers on the day before the date this Act takes effect.

3 (2) Under rules established by the United States Immi-
4 gration Board, with respect to exclusion and deportation
5 cases and applications for asylum pending as of the hearing
6 transition date, the United States Immigration Board shall be
7 deemed to be a continuation of the Board of Immigration
8 Appeals and administrative law judges shall be deemed to be
9 a continuation of special inquiry officers for the purposes of
10 effectuating the continuation of all existing powers, rights,
11 and jurisdiction.

12 (3) Any reference in the Immigration and Nationality
13 Act to an administrative law judge shall be considered, before
14 the transition date, to be a reference to a special inquiry offi-
15 cer.

16 **SEC. 124. TECHNICAL AND CONFORMING AMENDMENTS.**

17 (a)(1) Section 101(a) (8 U.S.C. 1101(a)) is amended by
18 adding at the end the following new paragraph:

19 “(43) The term ‘administrative law judge’ means such a
20 judge appointed under section 107.”.

21 (2) Section 101(b) (8 U.S.C. 1101(b)) is amended by
22 striking out paragraph (4) and redesignating paragraph (5) as
23 paragraph (4).

1 (b) The first sentence of section 234 (8 U.S.C. 1124) is
2 amended by striking out "special inquiry officers" and insert-
3 ing in lieu thereof "administrative law judges".

4 (c)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is
5 amended—

6 (A) by striking out "special inquiry officers" in
7 the first sentence and inserting in lieu thereof "admin-
8 istrative law judges",

9 (B) by striking out ", including special inquiry of-
10 ficers," in the fourth sentence and inserting in lieu
11 thereof "and any administrative law judge",

12 (C) by striking out ", including special inquiry
13 officers," in the sixth sentence,

14 (D) by striking out "and special inquiry officers"
15 in the sixth sentence and inserting in lieu thereof "and
16 administrative law judges", and

17 (E) by striking out "special inquiry officer" each
18 place it appears in the seventh sentence and inserting
19 in lieu thereof "administrative law judge".

20 (2) Subsection (c) of such section is amended—

21 (A) by striking out "the special inquiry officer"
22 during the examination before either of such officers"
23 in the first sentence and inserting in lieu thereof
24 "during the examination or an administrative law judge
25 during an exclusion hearing",

1 (B) by striking out "no further inquiry by a spe-
2 cial inquiry officer" in the first sentence and inserting
3 in lieu thereof "no further examination or exclusion
4 hearing",

5 (C) by striking out "inquiry or further inquiry" in
6 the first sentence and inserting in lieu thereof "exami-
7 nation or hearing",

8 (D) by striking out "any inquiry or further inquiry
9 by a special inquiry officer" in the second sentence and
10 inserting in lieu thereof "any examination or hearing",
11 and

12 (E) by striking out "an inquiry before a special in-
13 quiry officer" in the third sentence and inserting in lieu
14 thereof "an exclusion hearing before an administrative
15 law judge".

16 (d) Sections 106(a)(2), 236, and 242(b) (8 U.S.C.
17 1105a(a)(2), 1126, 1252(b)) are each amended by striking out
18 "A" and "a" each place either appears before "special in-
19 quiry officer" and inserting in lieu thereof "An" and "an",
20 respectively.

21 (e)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2),
22 1226) are each amended by striking out "special inquiry offi-
23 cer" and inserting in lieu thereof "administrative law judge"
24 each place it appears.

1 (2) Subsection (a) of section 236 (8 U.S.C. 1226) is
2 amended—

3 (A) by amending the first sentence to read as fol-
4 lows: "An administrative law judge shall conduct pro-
5 ceedings under this section.",

6 (B) by striking out "for further inquiry" in the
7 second sentence and inserting in lieu thereof "for an
8 exclusion hearing",

9 (C) by striking out "at the inquiry" in the third
10 sentence and inserting in lieu thereof "at the hearing",

11 (D) by striking out the fourth sentence,

12 (E) by striking out "regulations as the Attorney
13 General shall prescribe" in the fifth sentence and in-
14 serting in lieu thereof "rules as the United States Im-
15 migration Board shall establish", and

16 (F) by striking out "inquiry" in the seventh sen-
17 tence and inserting in lieu thereof "hearing".

18 (3) Subsection (b) of such section is amended—

19 (A) by striking out "From a decision" and all that
20 follows through "Attorney General" in the first sen-
21 tence and inserting in lieu thereof the following: "From
22 a decision of an administrative law judge excluding or
23 admitting an alien, the alien or the immigration officer
24 in charge at the port where the hearing is held, respec-
25 tively, may file a timely appeal of the decision with the

1 United States Immigration Board in accordance with
2 rules established by the Board”,

3 (B) by striking out “Attorney General” in the
4 fourth sentence and inserting in lieu thereof “United
5 States Immigration Board”, and

6 (C) by striking out the third sentence.

7 (4) Subsection (c) of such section is amended by striking
8 out “to the Attorney General”.

9 (f) Section 242(b) (8 U.S.C. 1252(b)) is amended—

10 (1) by striking out “special inquiry officer” each
11 place it appears in the first, second, third, and seventh
12 sentences and inserting in lieu thereof “administrative
13 law judge”,

14 (2) by striking out “shall administer oaths” and
15 all that follows through “Attorney General,” in the
16 first sentence,

17 (3) by striking out “Attorney General shall pre-
18 scribe” in the second sentence and inserting in lieu
19 thereof “United States Immigration Board shall
20 establish”,

21 (4) by striking out “In any case” and all that fol-
22 lows through “an additional immigration officer” in the
23 fourth sentence and inserting in lieu thereof “An immi-
24 gration officer” and by striking out “in such case such
25 additional immigration officer” in that sentence,

1 (5) by striking out the fifth and sixth sentences,

2 (6) by striking out "such regulations" and all that
3 follows through "shall prescribe" in the seventh sen-
4 tence and inserting in lieu thereof "rules as are estab-
5 lished by the United States Immigration Board",

6 (7) by striking out "Such regulations" in the
7 eighth sentence and inserting in lieu thereof "Such
8 rules", and

9 (8) by striking out "Attorney General shall be
10 final" in the tenth sentence and inserting in lieu there-
11 of "administrative law judge shall be final unless re-
12 versed on appeal".

13 (g) The last sentence of section 273(d) (8 U.S.C.
14 1323(d)) is amended by striking out "special inquiry officers"
15 and inserting in lieu thereof "administrative law judges".

16 (h) Section 292 (8 U.S.C. 1362) is amended—

17 (1) by striking out "In" and all that follows
18 through "proceedings," and inserting in lieu thereof
19 "In any proceeding or hearing before an administrative
20 law judge and in any appeal before the United States
21 Immigration Board from any such proceeding", and

22 (2) by inserting "and at no unreasonable delay"
23 after "Government".

24 (i) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting “(and appeals thereof)” in the first sentence after “proceedings”, and

(2) by striking out the second sentence.

(j) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an administrative law judge under section 101(a)(43) of such Act.

TITLE II—REFORM OF LEGAL IMMIGRATION AND NATURALIZATION

PART A—IMMIGRANTS

SEC. 201. PROVIDING ADDITIONAL IMMIGRANT VISA NUM- BERS FOR NATIVES OF CONTIGUOUS COUN- TRIES.

(a) ADDITIONAL IMMIGRANT VISA NUMBERS.—Sec-
tion 201 (8 U.S.C. 1151) is amended—

(1) by inserting “certain aliens provided immi-
grant visa numbers under subsection (c),” in subsection
(a) after “subsection (b) of this section,” and

(2) by adding at the end the following new sub-
section:

“(c) ADDITIONAL VISA NUMBERS FOR NATIVES OF
CONTIGUOUS COUNTRIES.—(1) In addition to the number of
immigrant visas made available under subsection (a), there
shall be made available to natives of each of the foreign

1 states contiguous to the United States for each fiscal year a
2 number of immigrant visas not to exceed the number speci-
3 fied under paragraph (2), not more than 26 percent of which
4 may be made available in any of the first three quarters of
5 such fiscal year.

6 “(2)(A) Except as provided in subparagraph (B), the
7 number of additional visas made available to natives of either
8 of the foreign contiguous states for a fiscal year is equal to
9 20,000.

10 “(B) If for a fiscal year one of the foreign contiguous
11 states does not use the full number of additional immigrant
12 visa numbers made available under this subsection, then the
13 number of additional visas made available to natives of the
14 other foreign contiguous state for the following fiscal year
15 shall be increased by the number not used by the other for-
16 eign contiguous state for the previous fiscal year.”.

17 (b) ALLOTMENT OF NEW VISA NUMBERS.—Section
18 203 (8 U.S.C. 1153) is amended by adding at the end the
19 following new subsection:

20 “(f) ALLOTMENT OF SPECIAL VISAS FOR CONTIGUOUS
21 COUNTRIES.—(1) Aliens who are subject to the numerical
22 limitations specified in section 201(c) shall be allotted visas in
23 the same manner, subject to the same conditions, and in the
24 same order as aliens who are subject to the numerical limita-
25 tions specified in section 201(a) are allotted visas under sub-

1 section (a), except that the percentage limitations specified in
2 paragraphs (1) through (6) thereof shall not apply.

3 “(2) Requirements respecting acquisition of preference
4 status by reason of a relationship or occupational qualification
5 described in a paragraph of subsection (a) shall apply, in the
6 same manner, for the acquisition of preference status under
7 paragraph (1) of this subsection.”.

8 (c) CONFORMING AMENDMENTS.—Section 202 (8
9 U.S.C. 1152) is amended—

10 (1) by inserting “and (C)” in subsection (a) after
11 “section 201(b)”,

12 (2) by striking out “under section 202” in the
13 matter in subsection (e) before paragraph (1) and in-
14 serting in lieu thereof “under subsection (a)”, and

15 (3) by adding at the end of subsection (e) the fol-
16 lowing:

17 “This subsection shall not apply to visas made available
18 under section 201(c) and allotted under section 203(f).”.

19 (d) EFFECTIVE DATE.—The amendments made by this
20 section shall apply to fiscal years beginning with fiscal year
21 1986.

22 SEC. 202. CHANGE IN COLONIAL QUOTA.

23 (a) INCREASE TO 3,000.—(1) Section 202(c) (8 U.S.C.
24 1152(c)) is amended by striking out “six hundred” and insert-
25 ing in lieu thereof “three thousand”.

25 “(G) on environmental quality and resources, and

1 “(H) on the population growth rate of the United
2 States,
3 of admissions and other entries of immigrants, refugees, asy-
4 lees, and parolees into the United States.

5 “(3) Such impact shall be—

6 “(A) described for the preceding three-year
7 period, and

8 “(B) projected for the succeeding five-year period,
9 based on reasonable estimates substantiated by the best
10 available evidence.

11 “(b) DETAILS IN REPORT.—(1) The President shall in-
12 clude in such report—

13 “(A) the number and classification of aliens—

14 “(i) admitted, whether as immediate rela-
15 tives, special immigrants, refugees, or under the
16 preferences classifications, or as nonimmigrants,

17 “(ii) paroled, or

18 “(iii) granted asylum,

19 during the relevant period, and

20 “(B) a reasonable estimate of the number of aliens
21 who entered the United States during the period with-
22 out visas or who became deportable during the period
23 under section 241.

24 “(2) The President also shall include in such report any
25 appropriate recommendations on changes in numerical limita-

1 tions or other policies under this title bearing on the admis-
2 sion and entry of such aliens to the United States.

3 “(c) HEARINGS ON REPORT.—Not later than 90 days
4 after the date of receipt of such a report, the Committees on
5 the Judiciary of the House of Representatives and of the
6 Senate shall hold public hearings to review the findings and
7 recommendations contained in the report.”.

8 (b) CONFORMING AMENDMENT TO TABLE OF CON-
9 TENTS.—The table of contents is amended by inserting after
10 the item relating to section 209 the following new item:

“Sec. 210. Presidential report on immigration admissions and impacts.”.

11 **SEC. 204. MISCELLANEOUS CHANGES.**

12 (a) TREATMENT OF PUTATIVE FATHERS.—Section
13 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting
14 “or natural father” after “natural mother”.

15 (b) PERMITTING ADJUSTMENT OF STATUS OF CER-
16 TAIN RETIREES.—Section 19(2) of Public Law 97-116 is
17 amended by inserting “(A)” after “because” and by adding
18 before the semicolon at the end the following: “, or (B) the
19 alien was entering the United States for the purpose of re-
20 tirement, would not seek gainful employment in the United
21 States, had purchased property in the United States before
22 such date, and had demonstrated the ability for self-support
23 while in retirement”.

24 (c) TECHNICAL AMENDMENT RELATING TO AMERA-
25 SIAN CHILDREN.—Section 204(g)(3)(A) (8 U.S.C.

1 1154(g)(3)(A)) is amended by striking out “(C)(i) of paragraph
2 2” and inserting in lieu thereof “(C)(ii) of paragraph (2)”.

3 (d) TREATMENT OF CERTAIN RESEARCHERS UNDER
4 LABOR CERTIFICATION.—Section 212(a)(14)(A) (8 U.S.C.
5 1182(a)(14)(A)) is amended—

6 (1) by inserting “(i)” before “who are members”,

7 (2) by striking out “or who have” and inserting in
8 lieu thereof “, (ii) who have”, and

9 (3) by inserting after “sciences or the arts” the
10 following: “, or (iii) who have doctoral degrees and are
11 seeking to enter the United States to be employed as
12 researchers at colleges, universities, or other nonprofit
13 educational or research institutions”.

14 (e) CERTAIN ABSENCES NOT PREVENTING SUSPEN-
15 SION OF DEPORTATION.—Section 244(b) (8 U.S.C. 1254(b))
16 is amended by inserting “(1)” after “(b)” and by adding at
17 the end the following new paragraph:

18 “(2) An alien shall not be considered to have failed to
19 maintain continuous physical presence in the United States
20 under paragraphs (1) and (2) of subsection (a) if the absence
21 from the United States was brief, casual, and innocent and
22 did not meaningfully interrupt the continuous physical
23 presence.”.

1 PART B—NONIMMIGRANT TOURISTS

2 SEC. 211. VISA WAIVER FOR CERTAIN VISITORS.

3 (a) VISA WAIVER PROGRAM.—Chapter 2 of title II is
4 amended by adding after section 215 the following new
5 section:

6 “VISA WAIVER PROGRAMS FOR CERTAIN VISITORS

7 “SEC. 216. (a) ESTABLISHMENT OF PILOT PRO-
8 GRAM.—The Attorney General and the Secretary of State
9 are authorized to establish a pilot program (hereafter in this
10 section referred to as the ‘pilot program’) under which the
11 requirement of paragraph (26)(B) of section 212(a) may be
12 waived by the Attorney General and the Secretary of State,
13 acting jointly and in accordance with this section, in the case
14 of an alien who meets the following requirements:

15 “(1) SEEKING ENTRY AS TOURIST FOR LESS
16 THAN 90 DAYS.—The alien is applying for admission
17 during the pilot program period (as defined in subsec-
18 tion (f)) as a nonimmigrant visitor (described in section
19 101(a)(15)(B)) for a period not exceeding 90 days.

20 “(2) NATIONAL OF PILOT PROGRAM COUNTRY.—
21 The alien is a national of a country which—

22 “(A) extends (or agrees to extend) reciprocal
23 privileges to citizens and nationals of the United
24 States, and

25 “(B) is designated as a pilot program country
26 under subsection (d).

1 “(3) EXECUTES ENTRY CONTROL AND WAIVER
2 FORMS.—The alien before the time of such admis-
3 sion—

4 “(A) completes such immigration form as the
5 Attorney General shall establish under subsection
6 (c)(3), and

7 “(B) executes a waiver of review and appeal
8 described in subsection (c)(4).

9 “(4) ROUND-TRIP TICKET.—The alien has a
10 round-trip, nonrefundable, nontransferable, open-dated
11 transportation ticket which—

12 “(A) is issued by a carrier which has entered
13 into an agreement described in subsection (e), and

14 “(B) guarantees transport of the alien out of
15 the United States at the end of the alien’s visit.

16 “(5) NOT A SAFETY THREAT.—The alien has
17 been determined not to represent a threat to the wel-
18 fare, health, safety, or security of the United States.

19 “(6) NO PREVIOUS VIOLATION.—If the alien pre-
20 viously was admitted without a visa under this section,
21 the alien must not have failed to comply with the con-
22 ditions of any previous admission as such a nonimmi-
23 grant.

24 “(b) VISA WAIVER PROGRAM FOR VISITORS TO
25 GUAM.—The requirement of paragraph (26)(B) of section

1 212(a) may be waived by the Attorney General, the Secre-
2 tary of State, and the Secretary of the Interior, acting jointly,
3 in the case of an alien applying for admission as a nonimmi-
4 grant visitor for business or pleasure and solely for entry into
5 and stay on Guam for a period not to exceed 15 days, if the
6 Attorney General, the Secretary of State, and the Secretary
7 of the Interior jointly determine that—

8 “(1) the territory of Guam has developed an ade-
9 quate arrival and departure control system, and

10 “(2) such a waiver does not present a threat to
11 the welfare, safety, or security of the United States.

12 “(c) CONDITIONS BEFORE PILOT PROGRAM CAN BE
13 PUT INTO OPERATION.—

14 “(1) PRIOR NOTICE TO CONGRESS.—The pilot
15 program described in subsection (a) may not be put
16 into operation until the end of the 30-day period begin-
17 ning on the date that the Attorney General submits to
18 the Congress a certification that the screening and
19 monitoring system described in paragraph (2) is oper-
20 ational and that the form described in paragraph (3)
21 has been produced.

22 “(2) AUTOMATED DATA ARRIVAL AND DEPAR-
23 TURE SYSTEM.—The Attorney General in cooperation
24 with the Secretary of State shall develop and establish
25 an automated data arrival and departure control

1 system to screen and monitor the arrival into and de-
2 parture from the United States of nonimmigrant visi-
3 tors receiving a visa waiver under the pilot program.

4 “(3) VISA WAIVER INFORMATION FORM.—The
5 Attorney General shall develop a form for use under
6 the pilot program. Such form shall be consistent and
7 compatible with the control system developed under
8 paragraph (2). Such form shall provide for, among
9 other items—

10 “(A) a summary description of the conditions
11 for excluding nonimmigrant visitors from the
12 United States under section 212(a) and under the
13 pilot program,

14 “(B) a description of the conditions of entry
15 with a waiver under the pilot program, including
16 the limitation of such entry to 90 days and the
17 consequences of failure to abide by such condi-
18 tions, and

19 “(C) questions for the alien to answer con-
20 cerning any previous denial of the alien’s applica-
21 tion for a visa.

22 “(4) WAIVER OF RIGHTS.—An alien may not be
23 provided a waiver under the pilot program unless the
24 alien has waived any right—

1 “(A) to review or appeal under this Act of
2 an immigration officer’s determination as to the
3 admissibility of the alien at the port of entry into
4 the United States or

5 “(B) to contest, other than on the basis of an
6 application for asylum, any action for deportation
7 against the alien.

8 “(d) DESIGNATION OF PILOT PROGRAM COUN-
9 TRIES.—

10 “(1) UP TO 8 COUNTRIES.—The Attorney Gener-
11 al and the Secretary of State acting jointly may desig-
12 nate up to eight countries as pilot program countries
13 for purposes of the pilot program.

14 “(2) INITIAL QUALIFICATIONS.—For the initial
15 period described in paragraph (4), a country may not
16 be designated as a pilot program country unless the
17 following requirements are met:

18 “(A) LOW NONIMMIGRANT VISA REFUSAL
19 RATE FOR PREVIOUS 2-YEAR PERIOD.—The av-
20 erage number of refusals of nonimmigrant visitor
21 visas for nationals of that country during the two
22 previous full fiscal years was less than 2.0 percent
23 of the total number of nonimmigrant visitor visas
24 for nationals of that country which were granted
25 or refused during those years.

1 “(B) LOW IMMIGRANT VISA REFUSAL RATE
2 FOR EACH OF 2 PREVIOUS YEARS.— The aver-
3 age number of refusals of nonimmigrant visitor
4 visas for nationals of that country during either of
5 such two previous full fiscal years was less than
6 2.5 percent of the total number of nonimmigrant
7 visitor visas for nationals of that country which
8 were granted or refused during that year.

9 “(3) CONTINUING AND SUBSEQUENT QUALIFICA-
10 TIONS.—For each fiscal year (within the pilot program
11 period) after the initial period—

12 “(A) CONTINUING QUALIFICATION.—In the
13 case of a country which was a pilot program
14 country in the previous fiscal year, a country may
15 not be designated as a pilot program country
16 unless the sum of—

17 “(i) the total of the number of nationals
18 of that country who were excluded from ad-
19 mission or withdrew their application for ad-
20 mission during such previous fiscal year as a
21 nonimmigrant visitor, and

22 “(ii) the total number of nationals of
23 that country who were admitted as nonimmi-
24 grant visitors during such previous fiscal

1 year and who violated the terms of such ad-
2 mission,
3 was less than 2 percent of the total number of na-
4 tionals of that country who applied for admission
5 as nonimmigrant visitors during such previous
6 fiscal year.

7 “(B) NEW COUNTRIES.—In the case of an-
8 other country, the country may not be designated
9 as a pilot program country unless the following
10 requirements are met:

11 “(i) LOW NONIMMIGRANT VISA REFUS-
12 AL RATE IN PREVIOUS 2-YEAR PERIOD.—
13 The average number of refusals of nonimmi-
14 grant visitor visas for nationals of that coun-
15 try during the two previous full fiscal years
16 was less than 2 percent of the total number
17 of nonimmigrant visitor visas for nationals of
18 that country which were granted or refused
19 during those years.

20 “(ii) LOW NONIMMIGRANT VISA REFUS-
21 AL RATE IN EACH OF THE 2 PREVIOUS
22 YEARS.—The average number of refusals of
23 nonimmigrant visitor visas for nationals of
24 that country during either of such two previ-
25 ous full fiscal years was less than 2.5 per-

1 cent of the total number of nonimmigrant
2 visitor visas for nationals of that country
3 which were granted or refused during that
4 year.

5 “(4) INITIAL PERIOD.—For purposes of para-
6 graphs (2) and (3), the term ‘initial period’ means the
7 period beginning at the end of the 30-day period de-
8 scribed in subsection (c)(1) and ending on the last day
9 of the first fiscal year which begins after such 30-day
10 period.

11 “(e) CARRIER AGREEMENTS.—

12 “(1) IN GENERAL.—The agreement referred to in
13 subsection (a)(4)(A) is an agreement between a carrier
14 and the Attorney General under which the carrier
15 agrees, in consideration of the waiver of the visa re-
16 quirement with respect to a nonimmigrant visitor under
17 the pilot program—

18 “(A) to indemnify the United States against
19 any costs for the transportation of the alien from
20 the United States if the visitor is refused admis-
21 sion to the United States or remains in the United
22 States unlawfully after the 90-day period de-
23 scribed in subsection (a)(1)(A), and

24 “(B) to submit daily to immigration officers
25 any immigration forms received with respect to

1 nonimmigrant visitors provided a waiver under
2 the pilot program.

3 “(2) TERMINATION OF AGREEMENTS.—The At-
4 torney General may terminate an agreement under
5 paragraph (1) with five days’ notice to the carrier for
6 the carrier’s failure to meet the terms of such agree-
7 ment.

8 “(f) DEFINITION OF PILOT PROGRAM PERIOD.—For
9 purposes of this section, the term ‘pilot program period’
10 means the period beginning at the end of the 30-day period
11 referred to in subsection (c)(1) and ending on the last day of
12 the third fiscal year which begins after such 30-day period.

13 “(g) REPORT ON PILOT PROGRAM.—The Attorney
14 General and the Secretary of State shall jointly monitor the
15 pilot program and shall report to the Congress not later than
16 two years after the beginning of the pilot program. The
17 report shall include recommendations respecting extension of
18 the pilot program period and of the number of countries that
19 may be designated under subsection (d)(1).”.

20 (b) LIMITATION ON STAY IN UNITED STATES.—Sec-
21 tion 214(a) (8 U.S.C. 1184(a)) is amended by adding at the
22 end the following new sentence: “No alien admitted to the
23 United States without a visa pursuant to subsection (a) or (b)
24 of section 216 may be authorized to remain in the United

1 States as a nonimmigrant visitor for a period exceeding 90
2 days or 15 days, respectively, from the date of admission.”.

3 (c) PROHIBITING ADJUSTMENT TO IMMIGRANT
4 STATUS.—Section 245(c) (8 U.S.C. 1255(c)) is amended by
5 striking out “or” before “(3)” and by inserting before the
6 period at the end the following: “, or (4) an alien (other than
7 an immediate relative specified in section 201(b)) who was
8 admitted as a nonimmigrant visitor without a visa under sec-
9 tion 216”.

10 (d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT
11 STATUS.—Section 248 (8 U.S.C. 1258) is amended by strik-
12 ing out “and” at the end of paragraph (2), by striking out the
13 period at the end of paragraph (3) and inserting in lieu there-
14 of “, and” and by adding at the end thereof the following
15 new paragraph:

16 “(4) an alien admitted as a nonimmigrant visitor
17 without a visa under section 216.”.

18 (e) CONFORMING AMENDMENT TO TABLE OF CON-
19 TENTS.—The table of contents is amended by adding after
20 the item relating to section 215 the following new item:

“Sec. 216. Visa waiver programs for certain visitors.”.

21 PART C—NATURALIZATION

22 SEC. 221. PROVIDING OPTION OF ADMINISTRATIVE NATURAL-
23 IZATION.

24 (a) IN GENERAL.—Section 310 (8 U.S.C. 1421) is
25 amended—

1 (1) by striking out "Exclusive" in subsection (a)
2 and inserting in lieu thereof "Except as provided in
3 subsection (f), exclusive", and

4 (2) by adding at the end the following new sub-
5 section:

6 “(f) ADMINISTRATIVE NATURALIZATION.—(1) Jurisi-
7 diction to naturalize persons as citizens of the United States
8 is hereby conferred upon the Attorney General.

9 “(2) The Attorney General may enter into arrange-
10 ments with any of the courts described in subsection (a) or
11 may otherwise provide for appropriate group ceremonies for
12 the actual conferral of citizenship in the case of individuals
13 who apply to the Attorney General for citizenship pursuant
14 to this subsection.

15 “(3) In the case of any petition for naturalization filed
16 with the Attorney General under this subsection, any refer-
17 ence in this chapter with respect to such petition to a natu-
18 ralization court or the clerk of such a court shall be consid-
19 ered to be a reference to the Attorney General.

20 “(4) Nothing in this subsection shall preclude an individ-
21 ual who has been denied naturalization under this subsection
22 from petitioning for naturalization to a court with jurisdiction
23 thereof under subsection (a). Any such petition shall be con-
24 sidered by the court de novo.”.

1 (b) CONFORMING AMENDMENTS.—(1) Section 316 (8
2 U.S.C. 1427) is amended—

3 (A) by striking out “who” in clause (1) of subsec-
4 tion (a) and inserting in lieu thereof “, except in the
5 case of a person seeking administrative naturalization
6 under section 310(f),”;

7 (B) by inserting “or the Attorney General” after
8 “court” in the first sentence of subsection (b) and in
9 paragraph (2) of such subsection; and

10 (C) by inserting “and the Attorney General” after
11 “the court” in subsection (e).

12 (2) Section 317 (8 U.S.C. 1428) is amended by
13 inserting “, except in the case of a person seeking ad-
14 ministrative naturalization under section 310(f),” before
15 “the naturalization court”.

16 (3) Section 318 (8 U.S.C. 1429) is amended by inserting
17 “or the Attorney General” after “naturalization court” each
18 place it appears.

19 (4) Section 319 (8 U.S.C. 1430) is amended—

20 (A) by inserting “, except in the case of a person
21 seeking administrative naturalization under section
22 310(f),” in subsection (a) after “totaling at least half of
23 that time and”, and

24 (B) by inserting “or the Attorney General, in the
25 case of administration naturalization under section

1 310(f)," after "naturalization court" in subsections
2 (b)(3) and (c)(5) each place it appears.

3 (5) Section 324 (8 U.S.C. 1435) is amended—

4 (A) by inserting "in the case of naturalization
5 which is not administrative naturalization under section
6 310(f)," in subsection (a)(3) after "(3)",

7 (B) by inserting "or the Attorney General, in the
8 case of administrative naturalization under section
9 310(f)," after "naturalization court" in subsection (b),

10 (C) by inserting "or before the Attorney General"
11 after "court" in subsection (c)(2), and

12 (D) by inserting "or Attorney General" in subsec-
13 tion (c)(3) after "court" each place it appears.

14 (6) Section 327(a) (8 U.S.C. 1438(a)) is amended by in-
15 serting "or before the Attorney General" after "section
16 310(a) of this title".

17 (7) Section 328(a) (8 U.S.C. 1439(a)) is amended by in-
18 serting ", except in the case of administrative naturalization
19 under section 310(f)," after "five years, and".

20 (8) Section 329(b)(3) (8 U.S.C. 1440(b)(3)) is amended
21 by inserting "in the case of naturalization which is not ad-
22 ministrative naturalization under section 310(f)," after "(3)".

23 (9) Section 331(b) (8 U.S.C. 1442(b)) is amended by in-
24 serting "by a court" after "hearing, or heard,".

1 (10) Section 333(a) (8 U.S.C. 1444(a)) is amended by
2 inserting “or the Attorney General” after “clerk of the
3 court”.

4 (11) Section 334(a) (8 U.S.C. 1445(a)) is amended—

5 (A) by inserting “or with the Attorney General, in
6 the case of administrative naturalization under section
7 310(f))” in subsection (a) after “clerk of a naturaliza-
8 tion court”,

9 (B) by inserting “or with the Attorney General, in
10 the case of administrative naturalization under section
11 310(f))” in subsection (d) after “office of the clerk”,

12 (C) by inserting “or by the Attorney General”
13 before the period at the end of subsection (d),

14 (D) by striking out “Before” in subsection (e) and
15 inserting in lieu thereof “In the case of naturalization
16 other than administrative naturalization under section
17 310(f), before”, and

18 (E) by inserting “or with the Attorney General”
19 in subsection (f) after “clerk of court”.

20 (12) Section 335 (8 U.S.C. 1446) is amended—

21 (A) by inserting “or with the Attorney General
22 under section 310(f))” in the first sentence of subsection
23 (b) after “naturalization court”,

24 (B) by inserting “or to the Attorney General” in
25 the first sentence of subsection (b) after “such court”,

1 (C) by striking out "The" in the first sentence of
2 subsection (d) and inserting in lieu thereof "In the case
3 of naturalization other than administrative naturaliza-
4 tion under section 310(f), the",

5 (D) by inserting "or with the Attorney General"
6 in the first sentence of subsection (e) after "office of
7 the clerk of the court",

8 (E) by inserting "or the Attorney General" in the
9 second sentence of subsection (e) after "the court",

10 (F) by inserting "or to the Attorney General" in
11 subsection (f)(1) after "other naturalization court",

12 (G) by inserting "to the Attorney General or" in
13 subsection (f)(2) after "in the case", and

14 (H) by inserting "or with the Attorney General"
15 in subsection (f)(2) after "which transferred".

16 (13) Section 336 (8 U.S.C. 1447) is amended by insert-
17 ing "(other than under section 310(f))" in subsection (a) after
18 "petition for naturalization".

19 (14) Section 337 (8 U.S.C. 1448) is amended—

20 (A) by inserting "or before an officer of the Serv-
21 ice designated by the Attorney General" in subsection
22 (a) after "in open court",

23 (B) by inserting "or the Attorney General" in
24 subsection (a) after "naturalization court" each place it
25 appears,

1 (C) by inserting "or before an officer of the Serv-
2 ice designated by the Attorney General" in subsection
3 (b) after "naturalization is made",

4 (D) by inserting "or by the Attorney General" in
5 subsection (b) after "recorded in the court", and

6 (E) by striking out "If" in subsection (c) and in-
7 serting in lieu thereof "In the case of naturalization
8 other than administrative naturalization under section
9 310(f), if".

10 (15) Section 338 (8 U.S.C. 1449) is amended—

11 (A) by inserting "or by the Attorney General"
12 after "naturalization court" the first place it appears,

13 (B) by inserting "or from the Attorney General"
14 after "clerk of such court",

15 (C) by inserting "(if any)" after "naturalization
16 court" the second place it appears,

17 (D) by inserting "or the Attorney General" after
18 "the court" the first place it appears,

19 (E) by inserting "or of an officer of the Service
20 designated by the Attorney General" after "clerk of
21 the naturalization court", and

22 (F) by inserting "or of the Service" after "seal of
23 the court".

24 (16) Section 340 (8 U.S.C. 1451) is amended—

1 (A) by inserting “(if any)” in the second sentence
2 of subsection (h) after “to the court”,

3 (B) by inserting “or the Attorney General, in the
4 case of administrative naturalization under section
5 310(f),” in subsection (h) after “has been naturalized”,
6 and

7 (C) by inserting “or regulations of the Attorney
8 General” in subsection (j) after “procedure or stat-
9 utes”.

10 (17) Section 244 (8 U.S.C. 1455) is amended—

11 (A) by inserting “and officers of the Service” in
12 subsection (a) after “The clerk of the court”,

13 (B) by inserting “or by the Attorney General” in
14 subsection (a)(1) after “naturalization court”, and

15 (C) by inserting “and no officer of the Service” in
16 subsection (h) after “no clerk of a United States
17 court”.

18 (c) EFFECTIVE DATES.—(1) The amendments made by
19 subsections (a) and (b) shall apply to petitions for naturaliza-
20 tion filed on or after such date, not later than one year after
21 the date of the enactment of this Act, as the Attorney Gener-
22 al shall provide by notice published in the Federal Register.

23 (2) The Attorney General shall provide a procedure
24 whereby, in the case of petitions for naturalization filed
25 before the effective date established under paragraph (1), the

1 petitioners may have such petitions transferred from the nat-
2 uralization court to the Attorney General for consideration
3 under section 310(f) of the Immigration and Nationality Act.

4 **SEC. 222. WAIVER OF ENGLISH LANGUAGE REQUIREMENT**
5 **FOR INDIVIDUALS OVER 50 YEARS OF AGE.**

6 The first proviso of section 312(1) (8 U.S.C. 1423(1)) is
7 amended by striking out “and has been living” and all that
8 follows through “permanent residence”.

9 **SEC. 223. ELIMINATING SIX MONTHS RESIDENCE REQUIRE-**
10 **MENT IN A STATE FOR NATURALIZATION.**

11 (a) IN GENERAL.—Section 316(a)(1) (8 U.S.C.
12 1427(a)(1)) is amended by striking out “and who has resided
13 within the State in which the petitioner filed the petition for
14 at least six months”.

15 (b) CONFORMING AMENDMENTS.—(1) Section 319 (8
16 U.S.C. 1430) is amended—

17 (A) by striking out “and has resided within the
18 State in which he filed his petition for at least six
19 months” in subsection (a),

20 (B) by striking out “or within the jurisdiction of
21 the naturalization court” in subsection (b),

22 (C) by striking out “or any State or within the ju-
23 risdiction of the court” in subsection (c), and

24 (D) by striking out “, or within the jurisdiction of
25 the naturalization court”.

1 (2) Subsection (c) of section 322 (8 U.S.C. 1433) is re-
2 pealed.

3 (3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended
4 by striking out “or within the State where the petition is
5 filed”.

6 (4) Section 328(a) (8 U.S.C. 1439(a)) is amended by
7 striking out “and in the State in which the petition for natu-
8 ralization is filed for at least six months,”.

9 (5) Section 329(b)(2) (8 U.S.C. 1440(b)(2)) is amended
10 by striking out “or any State”.

11 TITLE III—LEGALIZATION

12 SEC. 301. LEGALIZATION.

13 (a) PROVIDING FOR A LEGALIZATION PROGRAM.—
14 Chapter 5 of title II is amended by inserting after section
15 245 (8 U.S.C. 1255) the following new section:

16 “ADJUSTMENT OF STATUS OF CERTAIN ALIENS IN THE

17 UNITED STATES BEFORE JANUARY 1, 1982, TO THAT

18 OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

19 “SEC. 245A. (a) ADJUSTMENT OF STATUS.—The At-

20 torney General shall, under such regulations as he shall pre-

21 scribe, adjust the status of an alien to that of an alien lawul-

22 ly admitted for permanent residence if the alien meets the

23 following requirements:

24 “(1) TIMELY APPLICATION.—The alien must

25 apply for such adjustment during the 18-month period

26 beginning on a date (not later than 180 days after the

1 date of the enactment of this section) set by the Attor-
2 ney General.

3 “(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE
4 1982.—

5 “(A) IN GENERAL.—The alien must estab-
6 lish that he arrived in the United States before
7 January 1, 1982, and that he has resided continu-
8 ously in the United States in an unlawful status
9 since such date.

10 “(B) NONIMMIGRANTS.—In the case of an
11 alien who entered the United States as a nonim-
12 migrant before January 1, 1982, the alien must
13 establish that the alien's period of authorized stay
14 as a nonimmigrant expired before such date
15 through the passage of time or the alien's unlaw-
16 ful status was known to the Government as of
17 such date.

18 “(C) EXCHANGE VISITORS.—If the alien
19 was at any time a nonimmigrant exchange alien
20 (as defined in section 101(a)(15)(J)), the alien
21 must establish that the alien was not subject to
22 the two-year foreign residence requirement of sec-
23 tion 212(e) or has fulfilled that requirement or re-
24 ceived a waiver thereof.

1 “(D) ALIENS CONSIDERED TO BE IN UN-
2 LAWFUL STATUS.—For purposes of this section,
3 an alien who is in the United States in the status
4 of an alien paroled into the United States under
5 section 212(d)(5) or who is being permitted
6 (whether or not on an extended basis) to depart
7 voluntarily in lieu of deportation under section
8 242(b) or 244(e) shall be considered to be in the
9 United States in an unlawful status.

10 “(3) ADMISSIBLE AS IMMIGRANT.—The alien—

11 “(A) is admissible to the United States as an
12 immigrant, except as otherwise provided under
13 subsection (c)(2),

14 “(B) has not been convicted of any felony
15 committed in the United States, other than for a
16 violation of section 275 or 276,

17 “(C) has not assisted in the persecution of
18 any person or persons on account of race, reli-
19 gion, nationality, membership in a particular
20 social group, or political opinion, and

21 “(D) registers under the Military Selective
22 Service Act, if the alien is required to be so regis-
23 tered under that Act.

24 “(b) APPLICATION PROCESS.—

1 “(1) AGENCY DESIGNATION.—The Attorney Gen-
2 eral shall designate and enter into contracts with quali-
3 fied voluntary agencies and other qualified state, local,
4 and community organizations to assist and advise indi-
5 viduals in making application to the Attorney General
6 under subsection (a).

7 “(2) FORWARDING APPLICATIONS.—Such organi-
8 zations may forward applications they receive to the
9 Attorney General for his consideration.

10 “(3) ADVOCACY BY ORGANIZATIONS.—Nothing in
11 this section shall be construed as preventing such orga-
12 nizations from representing, or otherwise serving as
13 advocates on behalf of, applicants under this section.

14 “(4) DISCLOSURE OF INFORMATION.—

15 “(A) DISCLOSURE BY DESIGNATED AGEN-
16 CIES PROHIBITED WITHOUT APPLICANT’S CON-
17 SENT.—An agency or organization designated
18 under paragraph (1) (and agents and employees
19 thereof) shall, pursuant to regulations prescribed
20 by the Attorney General, be prohibited from pro-
21 viding any person or entity with individually iden-
22 tifiable information contained in any alien’s appli-
23 cation under this section unless the alien has con-
24 sented in writing to such disclosure.

1 “(B) APPLICANTS’ INFORMATION TREATED
2 AS CONFIDENTIAL.—Individually identifiable in-
3 formation provided in any application for adjust-
4 ment of an alien under this section shall be confi-
5 dential and shall not be disclosed, without the
6 consent of the alien, to any entity (including any
7 entity outside the Immigration and Naturalization
8 Service) except as may be required to carry out
9 this section (including the imposition of any penal-
10 ty under law for the submission of false, fictitious,
11 or fraudulent statements in the application).

12 “(C) NOTICE OF CONFIDENTIALITY ON AP-
13 PPLICATION FORMS AND PENALTY FOR FALSE
14 STATEMENTS.—The application form under this
15 section shall include notice of the provisions of
16 this paragraph and of the fact that aliens who
17 knowingly and willfully make false, fictitious, or
18 fraudulent statements in the process of submitting
19 the application are subject to criminal penalty
20 under section 1001 of title 18, United States
21 Code.

22 “(5) APPLICATION FEES.—

23 “(A) AMOUNT OF FEES.—The fee for filing
24 an application for adjustment under this section
25 shall be established by the Attorney General and

1 may not exceed \$75 in the case of an individual
2 applicant or \$175 in the case of an application
3 filed on behalf of an individual, his spouse, and
4 any of his children.

5 “(B) USE OF FEES.— The Attorney General
6 shall deposit payments received under this para-
7 graph in a separate account and amounts in such
8 account shall be available, without fiscal year lim-
9 itation, to cover administrative and other expenses
10 incurred in connection with the review of applica-
11 tions filed under this section.

12 “(c) WAIVER OF NUMERICAL LIMITATIONS AND CER-
13 TAIN GROUNDS FOR EXCLUSION.—

14 “(1) NUMERICAL LIMITATIONS DO NOT
15 APPLY.—The numerical limitations of section 201 and
16 202 shall not apply to the adjustment of aliens to
17 lawful permanent resident status under this section.

18 “(2) WAIVER OF GROUNDS FOR EXCLUSION.—In
19 the determination of an alien’s admissibility under sub-
20 section (a)(3)(A)—

21 “(A) GROUNDS OF EXCLUSION NOT APPLI-
22 CABLE.—The provisions of paragraphs (14), (20),
23 (21), (25), and (32) of section 212(a) shall not
24 apply.

25 “(B) WAIVER OF OTHER GROUNDS.—

1 “(i) IN GENERAL.—Except as provided
2 in clause (ii), the Attorney General may
3 waive any other provision of section 212(a)
4 in the case of individual aliens for humanitar-
5 ian purposes, to assure family unity, or when
6 it is otherwise in the public interest.

7 “(ii) GROUNDS THAT MAY NOT BE
8 WAIVED.—The following provisions of sec-
9 tion 212(a) may not be waived by the Attor-
10 ney General under clause (i):

11 “(I) Paragraph (9) and (10) (relat-
12 ing to criminals).

13 “(II) Paragraph (23) (relating to
14 drug offenses), except for so much of
15 such paragraph as relates to a single of-
16 fense of simple possession of 30 grams
17 or less of marihuana.

18 “(III) Paragraphs (27), (28), and
19 (29) (relating to national security and
20 members of certain organizations).

21 “(IV) Paragraph (33) (relating to
22 those who assisted in the Nazi persecu-
23 tions).

24 “(iii) SPECIAL RULE FOR DETERMINA-
25 TION OF PUBLIC CHARGE.—An alien is not

ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment evidencing self-support without reliance on public cash assistance.

“(3) MEDICAL EXAMINATION REQUIRED.—An alien applying for adjustment of status under this section is required, not at the Government’s expense, to meet the same requirements with respect to a medical examination as are required of aliens seeking entry into the United States as immigrants. Such examination shall be conducted in accordance with current medical standards.

“(d) TEMPORARY STAY OF DEPORTATION, PERMITTING TRAVEL ABROAD, AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

“(1) OPPORTUNITY TO APPLY DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the end of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the

1 alien has had a reasonable opportunity to complete the
2 filing of an application for adjustment, the alien—

3 “(A) may not be deported or excluded,

4 “(B) shall be permitted to leave and return
5 to the United States after such brief and casual
6 trips abroad as reflect an intention on the part of
7 the alien to adjust to lawful permanent resident
8 status under subsection (a), and

9 “(C) shall be granted authorization to engage
10 in employment in the United States and be pro-
11 vided an ‘employment authorized’ endorsement or
12 other appropriate work permit.

13 “(2) WHILE APPLICATION PENDING.—The Attor-
14 ney General shall provide that in the case of an alien
15 who presents a nonfrivolous application for adjustment
16 of status under subsection (a) during the application
17 period described in subsection (a)(1), until a final deter-
18 mination on the application has been made in accord-
19 ance with this section, the alien—

20 “(A) may not be deported or excluded,

21 “(B) shall be permitted to leave and return
22 to the United States after such brief and casual
23 trips abroad as reflect an intention on the part of
24 the alien to adjust to lawful permanent resident
25 status under subsection (a), and

1 “(C) shall be granted authorization to engage
2 in employment in the United States and be pro-
3 vided an ‘employment authorized’ endorsement or
4 other appropriate work permit.

5 “(3) NOTICE OF RIGHTS.—The Attorney General
6 shall provide that in the case of an alien who is appre-
7 hended before the end of the application period de-
8 scribed in subsection (a)(1), the alien shall be advised,
9 in addition to such notice as may be required under
10 section 287(d)(1), that—

11 “(A) the alien may be eligible to have his
12 status adjusted under this section,

13 “(B) an alien who can establish a nonfrivo-
14 lous case of eligibility for such adjustment under
15 this section shall not be deported or excluded until
16 a final determination on the application has been
17 made in accordance with this section, and

18 “(C) the alien may contact such voluntary
19 agencies, or other qualified State, local, and com-
20 munity organizations, as are designated by the
21 Attorney General under subsection (b)(1), for as-
22 sistance in determining whether or not the alien
23 has a nonfrivolous case for adjustment of status
24 under this section.

1 The Attorney General shall make available a list of
2 voluntary agencies or other qualified organizations des-
3 ignated under subsection (b)(1) to such aliens.

4 “(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

5 “(1) LIMITATION ON ADMINISTRATIVE AND JUDI-
6 CIAL REVIEW.—There shall be no administrative or ju-
7 dicial review of a determination respecting an applica-
8 tion for adjustment of status under this section except
9 in accordance with this subsection.

10 “(2) ADMINISTRATIVE REVIEW.—

11 “(A) DE NOVO HEARING.—An alien whose
12 application for adjustment of status under this sec-
13 tion is denied is entitled to a de novo hearing with
14 respect to such application if a notice of request
15 for such hearing is made within a reasonable time
16 (of not less than 30 days, as established by the
17 Attorney General) of the date of the notice of the
18 denial. Only one such de novo hearing may be re-
19 quested with respect to any alien.

20 “(B) ADJUDICATION-STYLE HEARING.—The
21 hearing shall be conducted before an administra-
22 tive law judge in accordance with the require-
23 ments of section 554 of title 5, United States
24 Code, and rules of the United States Immigration
25 Board established under section 107.

1 “(3) STANDARD FOR SUBSEQUENT REVIEW.—

2 “(A) IF PREVIOUS ADMINISTRATIVE HEAR-
3 ING.—If a hearing under paragraph (2) is timely
4 requested, any further administrative or judicial
5 review (whether in a deportation proceeding or
6 otherwise) of the determination on the application
7 for adjustment shall be based solely upon the ad-
8 ministrative record upon which the order is based
9 and the administrative law judge’s findings of fact,
10 if supported by substantial evidence on the record
11 considered as a whole, shall be conclusive.

12 “(B) IF NO PREVIOUS ADMINISTRATIVE
13 HEARING.—If an alien does not make a timely
14 request for a de novo hearing under paragraph
15 (2), any administrative or judicial review shall be
16 based solely on the administrative record upon
17 which the determination on the application was
18 made.

19 “(4) ADMINISTRATIVE APPELLATE REVIEW.—An
20 applicant may elect to have administrative appellate
21 review by the United States Immigration Board of a
22 determination respecting an application for adjustment
23 under this section only once, either in a review of a
24 determination after a de novo hearing under paragraph

1 (2) or in a review of a deportation order respecting the
2 applicant.

3 “(5) JUDICIAL REVIEW.—There shall be no judi-
4 cial review of a denial of an alien’s application for ad-
5 justment except in the judicial review under section
6 106 of an order of deportation with respect to the
7 alien.

8 “(f) IMPLEMENTATION OF SECTION.—

9 “(1) REGULATIONS.—The Attorney General,
10 after consultation with the Committees on the Judici-
11 ary of the House of Representatives and the Senate
12 and with voluntary agencies and other qualified organi-
13 zations designated under subsection (b)(1), shall pre-
14 scribe regulations establishing—

15 “(A) a definition of the term ‘resided continu-
16 ously’, as used in this section, and

17 “(B) the requirements necessary to prove eli-
18 gibility for adjustment of status under this section.

19 “(2) GUIDELINES.—

20 “(A) PUBLICATION.—The Attorney General
21 shall publish guidelines for the approval of appli-
22 cations for adjustment submitted under this sec-
23 tion.

24 “(B) LIBERAL CONSTRUCTION OF REQUIRE-
25 MENTS.— In establishing such guidelines, the At-

1 torney General shall liberally construe the re-
2 quirements for eligibility for adjustment of status
3 under this section taking into account the special
4 circumstances relating to individuals previously
5 residing unlawfully in the United States.

6 “(C) APPLICATIONS MEETINGS GUIDELINES
7 TO BE APPROVED.—An alien’s application sub-
8 mitted under this section which meets such guide-
9 lines shall be approved, unless the Attorney Gen-
10 eral can establish legal grounds for the denial of
11 the application.

12 “(3) USE OF AFFIDAVITS.—The regulations and
13 guidelines under paragraphs (1) and (2)—

14 “(A) shall recognize and accept the use of af-
15 fidavits of witnesses, whether alone or with other
16 evidence, to establish continuous residence in the
17 United States, and

18 “(B) shall take into consideration the special
19 circumstances relating to individuals previously
20 residing unlawfully in the United States.

21 “(4) TREATMENT OF CONTINUOUS RESI-
22 DENCE UNDER REGULATIONS AND GUIDE-
23 LINES.—

24 “(A) FLEXIBLE TREATMENT.—The regula-
25 tions and guidelines under this subsection shall—

1 “(i) provide for flexibility in the determi-
2 nation of periods of continuous residence in
3 the United States, and

4 “(ii) not find a failure to maintain con-
5 tinuous residence where an alien has not
6 been physically present in the United States
7 due merely to brief and casual trips abroad
8 or due to temporary trips abroad required by
9 emergency or extenuating circumstances out-
10 side the control of the alien.

11 “(B) ABSENCES OF 45 DAYS PER YEAR
12 PERMITTED.—Such regulations and guidelines
13 shall not find an alien to have failed to have been
14 continuously resident in the United States solely
15 on the basis that the alien was not physically
16 present in the United States for any period of less
17 than 45 days per year since January 1, 1982.

18 “(C) VOLUNTARY DEPARTURE DOES NOT
19 NECESSARILY BREAK CONTINUOUS RESI-
20 DENCE.—Continuous residence shall not be con-
21 sidered to be interrupted merely because of the
22 voluntary departure of the alien from the United
23 States where no final order of deportation has
24 been entered and there is no evidence of an intent
25 to terminate residence.

1 “(D) UNDUE HARDSHIP WAIVER OF CON-
2 TINUOUS RESIDENCE.—The Attorney General
3 may waive the requirement of subsection
4 (a)(2)(A)(i) in cases which would otherwise result
5 in undue hardship to the alien or to his spouse,
6 parent or child.

7 “(5) AUTHORITY TO ISSUE INTERIM FINAL
8 REGULATIONS.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of law, the Attorney General shall
11 first issue, on an interim or other basis and before
12 the beginning of the application period described
13 in subsection (a)(1), such regulations as are neces-
14 sary to implement this section on a timely basis.

15 “(B) TIMELY DESIGNATION OF QUALIFIED
16 AGENCIES.—During the period after the date of
17 the enactment of this section and before the be-
18 ginning of the application period described in sub-
19 section (a)(1), the Attorney General shall provide
20 for the designation and entering into agreements
21 with qualified agencies and organizations referred
22 to in subsection (b)(1).

23 “(g) TEMPORARY DISQUALIFICATION OF NEWLY
24 LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC
25 WELFARE ASSISTANCE.—

1 “(1) IN GENERAL.—Until an alien who is granted
2 permanent resident status under this section has re-
3 sided in the United States for a five-year period begin-
4 ning on the earliest date on which the alien can dem-
5 onstrate continuous residence in the United States,
6 except as provided in paragraph (2), the alien is not el-
7 igible for welfare assistance described in paragraph (3).

8 “(2) EXCEPTIONS.—Paragraph (1) shall not
9 apply—

10 “(A) to a Cuban and Haitian entrant (as de-
11 fined in paragraph (1) or (2)(A) of section 501(e)
12 of Public Law 96-422, as in effect on April 1,
13 1983);

14 “(B) in the case of assistance furnished to an
15 alien who is an aged, blind, or disabled individual
16 (as defined in section 1614(a)(1) of the Social Se-
17 curity Act); or

18 “(C) in the case of medical assistance—

19 “(i) for care and services provided to an
20 alien who is under 18 years of age,

21 “(ii) for emergency services (as defined
22 for purposes of section 1916(a)(2)(D) of the
23 Social Security Act), or

24 “(iii) for services described in section
25 1916(a)(2)(B) of such Act.

1 “(3) WELFARE ASSISTANCE.—

2 “(A) IN GENERAL.—The welfare assistance
3 referred to in paragraph (1) is—

4 “(i) financial assistance furnished under
5 Federal law (whether through grant, loan,
6 guarantee, or otherwise) on the basis of fi-
7 nancial need, as such programs are identified
8 by the Attorney General in consultation with
9 other appropriate heads of the various de-
10 partments and agencies of Government, and

11 “(ii) medical assistance under a State
12 plan approved under title XIX of the Social
13 Security Act.

14 “(B) EXCLUSION OF CERTAIN PROGRAMS.—
15 Assistance furnished under any of the following
16 provisions of law shall not be construed to be fi-
17 nancial assistance described in subparagraph
18 (A)(i):

19 “(i) The National School Lunch Act.

20 “(ii) The Child Nutrition Act of 1966.

21 “(iii) the Vocational Education Act of
22 1963.

23 “(iv) Chapter 1 of the Education Con-
24 solidation and Improvement Act of 1981.

1 “(v) The Headstart-Follow Through
2 Act.

3 “(vi) The Job Training Partnership Act.

4 “(vii) Subparts 4 and 5 of part A of
5 title IV of the Higher Education Act of
6 1965.

7 “(viii) The Public Health Service Act.

8 “(ix) Title V of the Social Security Act.

9 “(x) Any program providing unemploy-
10 ment assistance.

11 “(4) NECESSARY MODIFICATION OF MEDICAID
12 RULES.—The eligibility, comparability, and any other
13 State plan requirements of title XIX of the Social Se-
14 curity Act are superseded to the extent required to re-
15 strict the medical assistance in the manner described in
16 this subsection. The Secretary of Health and Human
17 Services, in coordination with the Attorney General,
18 shall promulgate regulations in order to carry out this
19 paragraph and subparagraphs (B) and (C) of paragraph
20 (3).

21 “(h) MISCELLANEOUS PROVISIONS.—

22 “(1) DISSEMINATION OF INFORMATION ON LE-
23 GALIZATION PROGRAM.—

24 “(A) IN GENERAL.—Beginning on the date
25 of the enactment of this section, the Attorney

1 General, in cooperation with qualified agencies
2 and organizations designated under subsection
3 (b)(1), shall take steps to broadly disseminate in-
4 formation respecting the adjustment of status
5 which aliens may be eligible for under this section
6 and the requirements to obtain such adjustment.

7 “(B) USE OF COMMUNITY RELATIONS SERV-
8 ICE.—To the maximum extent feasible, the Attor-
9 nery General shall use the community relations
10 service of the Department of Justice to assist in
11 disseminating such information and shall provide
12 for cooperative agreements with qualified organi-
13 zations which are identified with and able to best
14 assist populations likely to apply for adjustment
15 under this section.

16 “(2) CONTINUED AVAILABILITY OF APPROPRIA-
17 TIONS.—Amounts appropriated to carry out this sec-
18 tion shall be available for expenditure until the end of
19 the application period described in subsection (a)(1).

20 “(3) TREATMENT FOR PURPOSES OF NATURAL-
21 IZATION.—An alien’s adjustment to permanent resi-
22 dent status under this section shall constitute the
23 lawful admission for permanent residence of the alien
24 for purposes of section 318.”.

1 (b) CONFORMING AMENDMENT TO TABLE OF CON-
2 TENTS.—The table of contents for chapter 5 of title II is
3 amended by inserting after the item relating to section 245
4 the following new item:

“Sec. 245A. Adjustment of status of certain aliens in the United States before Jan-
uary 1, 1982, to that of persons admitted for permanent resi-
dence.”.

5 (c) PRESIDENTIAL REPORTS.—

6 (1) IMPLEMENTATION REPORT.—The President
7 shall transmit to Congress, not later than 12 months
8 after the end of the application period for adjustment to
9 lawful resident status under section 245A of the Immi-
10 gration and Nationality Act, a report describing the
11 population of aliens whose status is adjusted under
12 such section, including—

13 (A) the geographical origins of these aliens
14 and their manner of entry into the United States,
15 (B) their demographic characteristics, and
16 (C) a general profile and characteristics of
17 these aliens.

18 (2) IMPACT REPORT.—The President shall trans-
19 mit to Congress, not later than three years after the
20 date of transmittal of the report described in paragraph
21 (1), a report on the impact of the program of legaliza-
22 tion provided under section 245A of the Immigration
23 and Nationality Act, including—

(A) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(B) the patterns of employment of aliens whose status is adjusted under the program, and

(C) the participation of these aliens in social service programs.

SEC. 402. CUBAN-HAITIAN ADJUSTMENT.

(a) IN GENERAL.—Chapter 5 of title II is amended by inserting after section 245A, inserted by section 401 of this Act, the following new section:

“ADJUSTMENT OF STATUS OF CERTAIN CUBAN AND HAITIAN NATIONALS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

“SEC. 245B. (a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General’s discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

“(1) the alien applies for such adjustment within two years after the date of the enactment of this section;

“(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the

1 United States for permanent residence, except in deter-
2 mining such admissibility the grounds for exclusion
3 specified in paragraphs (14), (15), (20), (21), (25), and
4 (32) of section 212(a) shall not apply;

5 “(3) the alien is not an alien described in section
6 243(h)(2); and

7 “(4) the alien is physically present in the United
8 States on the date the application for such adjustment
9 is filed.

10 “(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF
11 STATUS.—The benefits provided by subsection (a) shall
12 apply to any alien (other than an alien described in subsection
13 (c))—

14 “(1) who has received an immigration designation
15 as a Cuban/Haitian Entrant (Status Pending), or

16 “(2) who is a national of Cuba or Haiti, who ar-
17 rived in the United States before January 1, 1982, and
18 with respect to whom any record was established by
19 the Immigration and Naturalization Service before
20 January 1, 1982.

21 “(c) CERTAIN NONIMMIGRANTS DISQUALIFIED.—The
22 benefits provided by subsection (a) shall not apply to an alien
23 who was admitted to the United States as a nonimmigrant,
24 unless the alien filed an application for asylum with the Im-

1 migration and Naturalization Service before January 1,
2 1982.

3 “(d) NO AFFECT ON FASCELL-STONE BENEFITS.—

4 Aliens granted permanent resident status under this section
5 shall be considered to be granted the special status referred
6 to in section 501(d)(1) of Public Law 96-422.

7 “(e) RECORD OF PERMANENT RESIDENCE AS OF JAN-

8 UARY 1, 1982.—Upon approval of an alien's application for
9 adjustment of status under subsection (a), the Attorney Gen-
10 eral shall establish a record of the alien's admission for per-
11 manent residence as of January 1, 1982.

12 “(f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

13 When an alien is granted the status of having been lawfully
14 admitted for permanent residence pursuant to this section,
15 the Secretary of State shall not be required to reduce the
16 number of immigrant visas authorized to be issued under this
17 Act and the Attorney General shall not be required to charge
18 the alien any fee.

19 “(g) NONEXCLUSIVE METHOD OF ADJUSTMENT.—The

20 fact that an alien may be eligible to be granted the status of
21 having been lawfully admitted for permanent residence under
22 this section shall not preclude the alien from seeking such
23 status under any other provision of law for which the alien
24 may be eligible.”.

1 (b) CONFORMING AMENDMENT TO TABLE OF CON-
2 TENTS.—The table of contents for chapter 5 of title II is
3 amended by inserting after the item relating to section 245A
4 (as added by section 301(b) of this Act) the following new
5 item:

“Sec. 245B. Adjustment of status of certain Cuban and Haitian nationals to that of
persons admitted for permanent residence.”.

6 SEC. 303. STATE AND LOCAL ASSISTANCE.

7 (a) AUTHORIZATION OF APPROPRIATIONS.—There are
8 authorized to be appropriated to carry out subsections (b) and
9 (c) of this section such sums as may be necessary for fiscal
10 year 1986 and for each of the three succeeding fiscal years.

11 (b) PAYMENTS TO STATES FOR COSTS OF PROGRAMS
12 OF PUBLIC ASSISTANCE AND PUBLIC HEALTH ASSIST-
13 ANCE.—(1) Subject to the amounts provided in advance in
14 appropriation Acts, the Secretary of Health and Human
15 Services shall provide reimbursement to each State (as de-
16 fined in paragraph (2)(A)) for—

17 (A) 100 percent of the costs of programs of public
18 assistance (as defined in paragraph (2)(B)) provided to
19 any eligible legalized alien (as defined in paragraph
20 (2)(D)), and

21 (B) for 100 percent of the costs of programs of
22 public health assistance (as defined in paragraph (2)(C))
23 provided to any alien who is, or is applying on a timely
24 basis to the Attorney General to become, an eligible

1 legalized alien and whose application has not been
2 denied.

3 (2) For purposes of this subsection:

4 (A) The term "State" has the meaning given such
5 term in section 101(a)(36) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1101(a)(36)).

7 (B) The term "programs of public assistance"
8 means programs in a State or local jurisdiction
9 which—

10 (i) provide for cash, medical, or other assist-
11 ance designed to meet the basic subsistence or
12 health needs of individuals,

13 (ii) are generally available to needy individ-
14 uals residing in the State or locality, and

15 (iii) receive funding from units of State or
16 local government.

17 (C) The term "programs of public health assist-
18 ance" means programs in a State or local jurisdiction
19 which—

20 (i) provide public health services, including
21 immunizations for immunizable diseases, testing
22 and treatment for tuberculosis and sexually-trans-
23 mitted diseases, and family planning services,

24 (ii) are generally available to needy individ-
25 uals residing in the State or locality, and

1 (iii) receive funding from units of State or
2 local government.

3 (D) The term "eligible legalized alien" means an
4 alien who has been granted permanent resident status
5 under section 245A(a) or 245B(a) of the Immigration
6 and Nationality Act.

7 (c) EDUCATIONAL ASSISTANCE.—(1) Subject to the
8 amounts provided in advance in appropriation Acts and in
9 accordance with this section, the Secretary of Education
10 shall make payments to State educational agencies for the
11 purpose of assisting local educational agencies of that State
12 in providing educational services for eligible legalized aliens
13 (as defined in subsection (b)(2)(D)).

14 (2) The definitions and provisions of titles I through IV
15 of the Refugee Education Assistance Act of 1980 shall apply
16 to payments under this subsection in the same manner as
17 they apply to grants and payments under those titles, except
18 that, in applying this paragraph, any reference in such titles
19 to an "eligible participant" shall be deemed to be a reference
20 to an "eligible legalized alien" during the 48-month period
21 beginning with the first month in which the alien is granted
22 permanent lawful residence under section 245A or 245B of
23 the Immigration and Nationality Act.

1 SEC. 304. COOPERATION WITH STATE AND LOCAL GOVERN-
2 MENTS.

3 (a) COOPERATION WITH STATE AND LOCAL ADVISORY
4 GROUPS.—In order to provide for a coordinated and cooper-
5 ative effort in the implementation of this Act and insure that
6 such implementation is fair and effective, the Attorney Gen-
7 eral, the Secretary of Labor, and the Secretary of Health and
8 Human Services shall maintain close contact with working
9 advisory groups established by State and local governments
10 and composed of interested private and public sector organi-
11 zations.

12 (b) FUNCTIONS OF GROUPS.—These groups may—

13 (1) review and comment on regulations and proce-
14 dures proposed to carry out this Act,

15 (2) monitor and evaluate the implementation of
16 this Act, and

17 (3) recommend such actions as may be necessary
18 to improve the implementation of this Act in their re-
19 spective areas.

20 (c) CONSIDERATION OF RECOMMENDATIONS.—The
21 Attorney General, the Secretary of Labor, and the Secretary
22 of Health and Human Services shall consider the recommen-
23 dations of these groups in the implementation of this Act.

1 TITLE IV—NATIONAL COMMISSION ON
2 IMMIGRATION

3 SEC. 401. NATIONAL COMMISSION ON IMMIGRATION.

4 (a) ESTABLISHMENT OF COMMISSION.—There is es-
5 tablished a National Commission on Immigration (hereinafter
6 in this section referred to as the “Commission”) to conduct
7 studies and analyses and to report to Congress concerning
8 the following:

9 (1) PUSH-PULL FACTORS AND RECIPROCAL PRO-
10 GRAMS.—(A) The push and pull factors affecting unau-
11 thorized immigration to the United States, and

12 (B) the development, in partnership with Latin
13 American countries, of reciprocal trade and economic
14 development programs of mutual benefit.

15 (2) EMPLOYMENT OF UNAUTHORIZED ALIENS.—
16 The incentives for employers in the United States to
17 employ aliens who are not authorized to be so
18 employed.

19 (3) AGRICULTURAL RELIANCE ON UNAUTHOR-
20 IZED WORKERS—The reliance of the agricultural in-
21 dustry on the employment, on a temporary basis, of
22 aliens not authorized to be employed in the United
23 States.

24 (4) BACKLOGS IN APPROVED IMMIGRANT
25 VISAS.—The existence and extent of backlogs for the

1 issuance of immigrant visas to aliens who have ap-
2 proved petitions for immigrant preference status.

3 (b) DETAILS OF STUDIES.—

4 (1) PUSH-PULL STUDY.—With respect to the
5 topic described in subsection (a)(1)(A)—

6 (A) REVIEW OF ECONOMIC AND SOCIAL
7 CONDITIONS.—The Commission shall review and
8 analyze—

9 (i) the economic and social conditions,
10 patterns, and trends in the United States and
11 in foreign countries which affect unauthor-
12 ized immigration into the United States,

13 (ii) the short-term and long-term prob-
14 lems in the United States and elsewhere as-
15 sociated with such unauthorized immigration,
16 and

17 (iii) potential solutions to such problems.

18 The Commission's reviews and analyses shall
19 focus on, and be conducted in close consultation
20 with the governments of, those foreign countries
21 from which nationals are most likely to immigrate
22 without prior authorization to the United States.

23 (B) CONSIDERATIONS.—The Commission
24 shall take into account, in such reviews and anal-
25 yses the following:

1 (i) TRENDS.—The prevailing and pro-
2 jected demographic, technological, and eco-
3 nomic trends affecting immigration into the
4 United States.

5 (ii) IMPACT OF LAWS.—The impact of
6 immigration laws, and their enforcement, on
7 unauthorized immigration and on social and
8 economic conditions in foreign countries.

9 (iii) IMPACT ON UNEMPLOYMENT.—
10 How unemployment in particular areas and
11 occupations in the United States is affected
12 by unauthorized immigration.

13 (iv) GOVERNING LAWS.—The laws,
14 policies (including trade policies), and proce-
15 dures governing economic and diplomatic re-
16 lations between the United States and for-
17 eign countries.

18 (C) RECOMMENDATIONS.—The Commission
19 shall make recommendations respecting additional
20 statutory and other changes that should be made
21 to best deal with unauthorized immigration into
22 the United States.

23 (2) STUDY ON EMPLOYMENT OF UNAUTHORIZED
24 ALIENS.—

1 (A) ASSESSMENT.—With respect to the
2 topic described in subsection (a)(2), the Commis-
3 sion shall assess—

4 (i) the effectiveness of the enforcement
5 of the labor laws described in section 101(e)
6 of this Act in removing the economic incen-
7 tive on hiring individuals not authorized to
8 be employed in the United States, and

9 (ii) the level of displacement from em-
10 ployment of lawful residents occurring as a
11 result of the employment of unlawful
12 residents.

13 (B) SPECIFIC RECOMMENDATIONS.—If the
14 labor laws described in section 101(e) are not ef-
15 fective in removing the economic incentive on
16 hiring individuals not authorized to be employed
17 in the United States, the Commission shall review
18 and make recommendations with respect to alter-
19 native measures which would minimize such job
20 displacement while insuring that employment dis-
21 crimination does not occur as a result of imple-
22 mentation of such measures.

23 (3) AGRICULTURAL RELIANCE ON TEMPORARY
24 WORKERS.—With respect to the topic described in
25 subsection (a)(3), the Commission shall review and

1 study the temporary worker program currently provid-
2 ed under the Immigration and Nationality Act and
3 shall assess the following:

4 (A) LABOR SHORTAGES.—Present and
5 future labor shortages in the agricultural industry.

6 (B) WORKER ABUSES.—Abuses of foreign,
7 as well as domestic, workers presently employed
8 in agriculture.

9 (C) USE OF DOMESTIC WORKERS.—The fea-
10 sibility and cost effectiveness of training and
11 transporting domestic workers to perform agricul-
12 tural work in areas as needed.

13 (D) SPECIFIC STATUTORY CHANGES.—
14 Whether or not statutory changes in such pro-
15 gram should be made with respect to—

16 (i) limiting the number of aliens who
17 can be admitted under such program,

18 (ii) changing the terms and conditions of
19 their employment,

20 (iii) changing the standards for recruit-
21 ment and retention of domestic workers,

22 (iv) providing for payment of Social Se-
23 curity and unemployment taxes under the
24 Federal Insurance Contributions Act and the

1 Federal Unemployment Tax Act with respect
2 to foreign agricultural workers, and

3 (v) otherwise removing any economic
4 disincentives to the hiring of qualified domes-
5 tic workers and ending the reliance of any
6 industry on a constant supply of temporary
7 foreign agricultural workers.

8 (4) IMMIGRANT VISA BACKLOGS.—

9 (A) REVIEW AND STUDY.—With respect to
10 the topic described in subsection (a)(4), the Com-
11 mission shall review and study the causes and cir-
12 cumstances regarding the existence of the backlog
13 in the issuance of immigrant visas to aliens with
14 approved preference petitions and shall propose
15 means of ameliorating such backlog, with particu-
16 lar focus on family reunification.

17 (B) DEADLINE FOR REPORT.—The Commis-
18 sion shall present its recommendations to the
19 Congress with respect to this topic not later than
20 18 months after the date of the enactment of this
21 Act.

22 (c) COMPOSITION OF COMMISSION.—

23 (1) IN GENERAL.—The Commission shall be com-
24 posed of 15 members as follows:

1 (A) PRESIDENTIAL APPOINTMENTS—Five
2 members appointed by the President, not more
3 than three of whom are members of the same po-
4 litical party and not more than three of whom are
5 officers or employees of the Federal Government.

6 (B) APPOINTMENTS BY SPEAKER OF HOUSE
7 OF REPRESENTATIVES.—Five members appointed
8 by the Speaker of the House of Representatives,
9 not more than three of whom are members of the
10 same political party and not more than two of
11 whom are members of Congress.

12 (C) APPOINTMENTS BY PRESIDENT PRO
13 TEMPORE OF SENATE.—Five members appointed
14 by the President pro tempore of the Senate, not
15 more than three of whom are members of the
16 same political party and not more than two of
17 whom are members of Congress.

18 (2) CONSIDERATIONS IN MAKING APPOINTMENTS.—In
19 making such appointments, due consideration shall be given
20 to securing representatives on the Commission from a variety
21 of constituencies, including State and local government offi-
22 cials and individuals and representatives of organizations
23 with experience or expertise in immigration matters. Mem-
24 bers shall be appointed in a manner that provides for bal-
25 anced representation of all interests.

1 (3) TIMELY APPOINTMENTS.—Appointments to the
2 Commission shall be made within 90 days after the date of
3 the enactment of this section.

4 (4) ELECTION OF CHAIRMAN AND VICE CHAIRMAN.—
5 The chairman and the vice chairman of the Commission shall
6 be elected from among the members. The term of office of the
7 chairman and vice chairman shall be for the life of the
8 Commission.

9 (5) PARTICIPATION BY REPRESENTATIVES OF FOR-
10 EIGN GOVERNMENTS.—The chairman may invite for the pur-
11 pose of participating in any meeting or hearing held by the
12 Commission, and for the purpose of contributing to the stud-
13 ies to be conducted and the recommendations to be developed
14 by the Commission, such representatives of the governments
15 of countries as the Commission deems desirable.

16 (d) MEMBERSHIP.—

17 (1) LIFE MEMBERSHIP.—Members shall be ap-
18 pointed for the life of the Commission.

19 (2) VACANCIES.—A vacancy in the Commission
20 shall be filled in the manner in which the original ap-
21 pointment was made.

22 (3) QUORUM.—Seven members of the Commission
23 shall constitute a quorum, but a lesser number may
24 hold hearings.

1 (4) MEETINGS.—The Commission shall meet at
2 the call of the chairman or a majority of its members.

3 (e) COMPENSATION OF MEMBERS.—

4 (1) PER DIEM.—

5 (A) NON-FEDERAL MEMBERS.—Each
6 member of the Commission who is not an officer
7 or employee of the Federal Government shall,
8 subject to such amounts as are provided in ad-
9 vance in appropriations Acts, receive \$150 for
10 each day (including traveltime) during which the
11 member is engaged in the actual performance of
12 duties of the Commission.

13 (B) FEDERAL MEMBERS.—Members of the
14 Commission who are officers or employees of the
15 Federal Government shall receive no additional
16 pay on account of their service on the Commis-
17 sion.

18 (2) TRAVEL EXPENSES.—While away from their
19 homes or regular places of business in the performance
20 of services for the Commission, members of the Com-
21 mission shall be allowed travel expenses, including per
22 diem in lieu of subsistence.

23 (f) STAFF.—

1 (1) DIRECTOR.—The Commission shall have a di-
2 rector who shall be appointed by and whose rate of
3 pay shall be fixed by the chairman.

4 (2) OTHER STAFF.—The chairman may appoint
5 and fix the rate of pay of such additional personnel as
6 the chairman deems desirable.

7 (3) LAW GOVERNING APPOINTMENT AND PAY.—
8 The director and staff of the Commission may be ap-
9 pointed without regard to the provisions of title 5,
10 United States Code, governing appointments in the
11 competitive service, and may be paid without regard to
12 the provisions of chapter 51 and subchapter III of
13 chapter 53 of such title relating to classification and
14 General Schedule pay rates.

15 (g) AUTHORITY OF COMMISSION.—

16 (1) HEARINGS.—The Commission may for the
17 purpose of carrying out its duties hold such hearings,
18 sit and act at such times and places, take such testimo-
19 ny, and receive such evidence as the Commission
20 deems advisable. To the extent feasible, the Commis-
21 sion shall hold at least some hearings in the border re-
22 gions of the United States.

23 (2) ESTABLISHMENT OF 3 EXPERT PANELS.—
24 The Commission shall, to the maximum extent feasible,
25 conduct its activities through the establishment of three

1 expert panels, each of the panels to provide detailed in-
2 formation and recommendations to the Commission re-
3 specting one of the topics described in subsection (a).

4 (3) USE OF CONSULTANTS.—The Commission
5 may procure, in accordance with the provisions of sec-
6 tion 3109 of title 5, United States Code, the temporary
7 or intermittent services of experts or consultants at a
8 rate to be fixed by the Commission, but not in excess
9 of \$150 per diem (including traveltime). While away
10 from his home or regular place of business in the per-
11 formance of services for the Commission, any such
12 person may be allowed travel expenses including per
13 diem in lieu of subsistence.

14 (4) INFORMATION FROM FEDERAL AGENCIES.—
15 The Commission may secure directly from any depart-
16 ment or agency of the United States information neces-
17 sary to enable it to carry out its duties. Upon request
18 of the chairman, the head of such agency or depart-
19 ment of the United States shall furnish all information
20 requested by the Commission which is necessary to
21 enable it to carry out its duties.

22 (5) ACCEPTING GIFTS.—The Commission may
23 accept, use, and dispose of gifts or donations of serv-
24 ices or property.

1 (6) USE OF U.S. MAILS.—The Commission may
2 use the United States mails in the same manner and
3 under the same conditions as other departments and
4 agencies of the United States.

5 (7) SUPPORT SERVICES FROM GSA.—The Admin-
6 istrator of General Services shall provide to the Com-
7 mission on a reimbursable basis such administrative
8 support services as the Commission may request.

9 (h) REPORTS AND TERMINATION.—

10 (1) REPORT.—The Commission shall transmit a
11 report to the Congress not later than three years after
12 the date of the enactment of this Act. Such report shall
13 include a summary of the reviews and analyses
14 conducted by or on behalf of the Commission and such
15 recommendations as the Commission deems
16 appropriate.

17 (2) TERMINATION.—The Commission shall cease
18 to exist on the thirtieth day beginning after the date of
19 the transmission of the report under paragraph (1).

20 (i) AUTHORIZATION OF APPROPRIATIONS.—There are
21 authorized to be appropriated such sums as may be necessary
22 to carry out the purposes of this section.

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